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REPORT OF THE Cornwall Inquiry

PHASE 1 & 2
EXECUTIVE
SUMMARY

VOLUME 1

VOLUME 2

VOLUME 3

VOLUME 4

The Honourable G. Normand Glaude
Commissioner



MIX



December 14, 2009

The Honourable Chris Bentley
Attorney General of Ontario
Ministry of the Attorney General
720 Bay Street, 11th Floor
Toronto, ON
M5G 2K1

Dear Mr. Attorney,

Re: Report of the Cornwall Public Inquiry

I am pleased to deliver to you my report in four volumes, in both English and French, as required under the terms of the Order-in-Council creating this Inquiry.

The first volume includes findings from my investigation into the institutional response of the justice system and other public institutions, in relation to allegations of historical abuse of young people in the Cornwall area. It also provides recommendations directed at improvements of response in similar circumstances. The second volume includes an account of Phase 2 activities and recommendations to support healing and reconciliation in the future. The third volume provides a summary of informal, non-evidentiary testimony. The fourth volume is an executive summary of volumes one and two of this Report.

It has been an honour to serve as Commissioner.

Yours truly,

A handwritten signature in dark ink, appearing to read 'G. Normand Glaude'.

The Honourable G. Normand Glaude
Commissioner



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Facts & Findings

The Cornwall Public Inquiry was established by the Ontario government on April 14, 2005, pursuant to the *Public Inquiries Act*. The Order-in-Council establishing this Commission set out the mandate:

2. The Commission shall inquire into and report on the institutional response of the justice system and other public institutions, including the interaction of that response with other public and community sectors, in relation to:
 - (a) allegations of historical abuse of young people in the Cornwall area, including the policies and practices then in place to respond to such allegations, and
 - (b) the creation and development of policies and practices that were designed to improve the response to allegations of abuse in order to make recommendations directed to the further improvement of the response in similar circumstances.
3. The Commission shall inquire into and report on processes, services or programs that would encourage community healing and reconciliation in Cornwall.
4. The Commission may provide community meetings or other opportunities apart from formal evidentiary hearings for individuals affected by the allegations of historical abuse of young people in the Cornwall area to express their experiences of events and the impact on their lives.

The mandate was divided into two parts. Phase 1 was the fact-finding phase. This portion of the mandate required me to inquire into and report on the events surrounding allegations of abuse of young people in Cornwall by examining the

response of the justice system and other public institutions to the allegations. I was also required to make recommendations to improve the response in similar circumstances. The work of this phase of the Inquiry was conducted by way of evidentiary hearings. Phase 2 was directed toward the goal of community healing and reconciliation. In Phase 2, we commissioned research papers, held community meetings and educational workshops, established witness and counselling support programs, and provided the opportunity for individuals to give informal testimony as part of the process of healing.

Expert Evidence on Child Abuse

The Phase 1 evidentiary hearings at the Cornwall Public Inquiry began with testimony on child sexual abuse from experts in different disciplines. The experts included psychologists, social workers, police officers, law professors, and Crown prosecutors. They gave an overview of the different types of child sexual abuse and described the prevalence of child sexual abuse in Canada. It was explained that children cannot give informed consent to sexual activity, behaviour they do not fully understand. Moreover, the relationship context is critical to understanding the nature of the abuse. The experts described the emotional bond that the child may have with the adult perpetrator of the abuse.

The concept of “grooming” of children by abusers was also discussed. Over time, child victims are introduced by the perpetrator to sexual activities. The grooming process is designed to make the child believe that the sexual activities are “normal” and acceptable.

The experts stated that pedophilia, which is sexual orientation toward children, is designated as a mental disorder in the *Diagnostic and Statistical Manual of Mental Disorders* of the American Psychiatric Association.¹ It was explained that pedophiles have no common background and are from different socio-economic classes and ethnic groups. Pedophiles can be married, single, and have children. They can have a heterosexual, homosexual, or bisexual orientation. According to the experts, almost all pedophiles are male.

Child sexual abuse usually occurs within ongoing relationships based on the appearance of protection, nurturing, and trust. Children often do not realize they are victims and repeatedly and voluntarily return to the abuser. They may be offered gifts, alcohol, or money. If an important or prominent member of the community such as a school principal, priest, or teacher instructs them to engage in particular sexual conduct, children may believe that this is acceptable behaviour.

1. American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, 4th ed. (Washington, DC: American Psychiatric Association, 1994).

In fact, victims of sexual abuse may not know until many years later that they have been abused.

According to experts, offenders prey on vulnerable children. Perpetrators seek to exert various controls over children—for example, financial and emotional—in order to disempower and intimidate these young people. There is a high recidivism rate among pedophiles.

Child sexual abuse has devastating effects not only during childhood but also long term, throughout adulthood. The impacts are psychological, physical, and financial. The consequences of child sexual abuse may also be intergenerational.

The impact of child sexual abuse depends not only on the severity and chronic nature of the abuse but also on the child's family and situational characteristics. As the experts stated, one of the most significant factors in mitigating the negative effects of child sexual abuse is support from and protective actions by the child's parents. The response from institutions and from officials in the institutions, such as childcare workers and police officers, is also important in terms of minimizing the adverse impact of the abuse. According to the experts, children who are believed and supported have the best chance of growing up healthy. The impact of child sexual abuse is generally more serious if the molester is in a position of trust and authority.

The long-term effects of child abuse in non-familial settings are connected to the nature of the relationship of the victim with the abuser, the significance of the setting, and the nature and the severity of the abuse. The importance of the institution, the role of the perpetrator(s) in the institution or organization, and the community's response to the allegations of abuse all have an impact on the long-term effects of the abuse on the victim.

The circumstances surrounding the abusive acts and post-abuse events have a profound impact on the well-being of the abused victim. That is, the nature of the sexual acts, whether violence was involved, and the response of the institution to disclosure by the child victim are important. For instance, if a religious or educational institution simply transfers a priest, teacher, or other perpetrator and does not conduct an investigation, the child victim may experience further feelings of self-blame and more serious, long-lasting consequences. The failure of the justice system to respond appropriately when allegations are raised can also have a devastating impact on victims of child sexual abuse.

The difficulties of disclosure encountered by child victims of sexual abuse are complex. Disclosure is very difficult for such victims because of their vulnerability and the power imbalance between them and the perpetrators of the abuse.

The experts discussed the many reasons why child victims of abuse fail to disclose. First, a young child may not in fact know that the sexual behaviour of an authority figure such as a teacher, priest, or foster parent is inappropriate.

Second, the child may be threatened by the abuser if he or she discloses the sexual acts to a person in the institution, to a parent, or to another caregiver. The relationship between the child, the abuser, and the institutional context also affects the victim's ability to disclose abuse. For example, a child raised in a community in which a religious institution is highly valued is less likely to report that he has been abused by a priest, minister, or other religious figure in that institution. Furthermore, the child victim may believe that disclosure will disrupt or destroy his or her family or community. Children may also not disclose because they feel embarrassed or guilty, or think they will not be believed. They may not feel safe disclosing the sexual abuse. Children may also feel guilty or ashamed because they found the sexual acts pleasurable.

Disclosure may occur one year, several years, or even decades after the sexual abuse. Survivors may feel that the abuse is something they need to resolve in their lives, or they may be very concerned that their siblings, children, or grandchildren are at risk of being abused by the same perpetrator. The victims may be in a different setting and consequently feel that their surroundings are such that it is safe to disclose the sexual abuse. They may also want to provide an explanation for their behaviour to their spouses, friends, family members, or the people with whom they work. Victims of abuse may also decide to seek therapy and compensation for the abuse. Survivors of abuse may seek acknowledgment of the abuse as well as an apology from the perpetrator.

Growing Awareness of Child Sexual Abuse

Until the 1980s, there was very little knowledge in Canada or in the United States of the prevalence or impact of child sexual abuse.

In 1983, Bill C-127 was proclaimed. Prior to that time, laws on sexual abuse focused on penetration. There were no offences in the *Criminal Code* for fondling, invitation to sexual touching, or for sexual exploitation of children by individuals in positions of trust. Also the language of many of the criminal offences described men as the offenders and women as victims, although boys are often victims of sex crimes and women are sometimes the offenders.

The 1983 reforms repealed the crime of rape and replaced it with sexual assault. Three tiers of sexual assault were introduced in the *Criminal Code*: sexual assault, sexual assault causing bodily harm, and aggravated sexual assault. Also the rules relating to the law of recent complaint were abrogated.

It was not until the Badgley Report in 1984 that government officials, Crown prosecutors, police officers, mental health professionals, and the public began to understand the scope of the problem of child sexual abuse in Canada. This national empirical study revealed that the incidence of child sexual abuse

was much higher than previously understood. It was also one of the first major studies to document the extent to which boys are sexually exploited.² Not only did the Badgley Report document the extent of child abuse in Canada but it also created awareness of the inadequacies of legislation, policies, and protocols in our country.

The Badgley Report concluded that the sexual assault laws in Canada did not adequately deal with grooming by pedophiles, sexual exploitation that did not involve penetration, or exploitation by people in positions of trust. The Badgley Report made significant recommendations about both evidence and procedural law with the objective of removing obstacles to the reception of children's testimony and accommodating child witnesses testifying in legal proceedings. The Report proposed amendments to the *Criminal Code* to address a broader range of sexual acts. Some of the recommendations in the Badgley Report were introduced in the *Criminal Code* and the *Canada Evidence Act* in 1988.

In 1990, the Rogers Report, *Reaching for Solutions*, confirmed the findings of the Badgley Report regarding the prevalence of child sexual abuse in Canada. The 1990 Report stated that child sexual abuse "affects children in all regions, races, religions, and socio-economic classes of our society."³ It found that about 95 percent of child sexual abusers are male and that although the majority of victims are girls, "many victims are boys."⁴ It stated that "incidents involving multiple victims and multiple offenders are becoming more common."⁵ According to the Rogers Report, "The sexual abuse of children is symptomatic of deeply rooted societal values which tolerate and thereby permit the misuse of power and authority against vulnerable populations, including children."⁶

The Rogers Report proposed several recommendations, which focused on improved linkages between the justice, correctional, and probation and parole systems; ways to expedite child sexual abuse cases in the court system; improved consistency in sentencing; requirements for education and training of all professionals in the legal system, including judges; specialization in the field of

2. Robin F. Badgley, *Summary of the Report of the Committee on Sexual Offences Against Children and Youths, appointed by The Minister of Justice & Attorney General of Canada, The Minister of National Health and Welfare Government of Canada* (Badgley Report) (Ottawa: Supply and Services Canada, 1984), p. 1.

3. Rix Rogers, *Reaching for Solutions: The Summary Report of the Special Advisor to the Minister of National Health and Welfare on Child Sexual Abuse in Canada* (Rogers Report) (Ottawa, ON: National Clearinghouse on Family Violence, Health and Welfare Canada, 1990), p. 13.

4. *Ibid.*, p. 13.

5. *Ibid.*, p. 13.

6. *Ibid.*, p. 15.

investigation and prosecutions; increased provision of victim witness support programs; changes in the *Criminal Code* to improve supervision and treatment of offenders and to improve victim protection; and screening mechanisms to ensure that those with a history of abuse are not placed in positions of responsibility for children. The Rogers Report concluded that there is a need for more programs, resources, training, and protocols to facilitate coordination between different organizations such as the police and child protection services.

In the late 1980s and early 1990s, child sexual abuse in an institutional context started to appear on the radar screens of professionals and members of the public. The Hughes Inquiry into abuse at Mount Cashel Orphanage in Newfoundland heightened awareness about issues of sexual abuse of boys in institutions. Also there was the St. George's Cathedral case in Kingston, in which there were allegations of abuse by a choirmaster, a respected member of the community. Reports started to appear in the media and professional literature about victims of child sexual abuse in residential schools as well as Ontario training schools such as Grandview, St. Joseph's Training School, and St. John's Training School.

Impediments to the Successful Prosecution of Child Abuse Cases

Until the 1980s, few criminal cases of child sexual abuse were successfully prosecuted in Ontario and Canada as a whole. Children's evidence was considered unreliable, there was a limited range of sexual offences in the *Criminal Code* under which offenders could be prosecuted, and children had to overcome significant legal hurdles in order to give evidence in a criminal trial. These are a few of the reasons why child sexual abuse cases either did not proceed or did not result in convictions of accused persons.

A further reason was that the legal system did not accommodate children. Moreover, children were traditionally considered to be unreliable witnesses. It was believed that young people had a tendency to lie and fantasize and that their memories were poor. Another impediment was that before children under fourteen years old were permitted to testify, they were required to pass a competency test.

The perception that children were inherently unreliable had ramifications throughout the social and legal systems. When children came forward and reported abusive acts, the response was that they were lying.

Children were often punished for making allegations against their perpetrators, some of whom were respected community figures such as priests. Young victims of sexual abuse were returned to the institutions at which they had been abused, such as schools, churches, and foster homes. The message to these children and other potential child victims was that sexual abuse should not be disclosed.

Particular Difficulties in Historical Sexual Abuse Cases

There are several reasons why historical sexual abuse cases have not been successfully prosecuted. First, the offender can be criminally charged only under provisions in the *Criminal Code* that existed at the time of the sexual abuse. Therefore, if the offence was committed before either the 1983 or the 1988 amendments to the *Criminal Code*, provisions such as fondling or invitations to sexual touching do not apply, and consequently the offender cannot be criminally charged with these offences.

Another obstacle is that adults who were sexually assaulted when they were children may have problems such as alcohol addiction and drug dependencies. They may also have criminal records. Another outcome of child sexual abuse is that they may not be capable of maintaining steady employment. These difficulties result in credibility issues at trial. As the experts stated in their testimony, people involved with the judicial system—police officers, judges, and lawyers—need to more fully understand the impact of historical sexual abuse; victims may distrust authority and may not be amicable or courteous.

As I stress repeatedly in the Report, it is important that trained and specialized persons interview survivors of child sexual abuse. Also counselling services to help individuals deal with some of these complex problems have not been available in the past, particularly for male victims. These important issues deserve attention.

Another problem has been a lack of understanding of how memory functions, particularly in cases of historical sexual abuse. Many people, including police officers and jurors, believe that witnesses who are confident, non-evasive, and non-hesitant in recounting a past event provide more accurate and reliable testimony. But what they fail to understand is that memory comes in fragments and that hesitation may indicate that a victim is working to reconstruct his or her memories.

Another obstacle in historical sexual assault cases is getting other victims to come forward and become involved in the criminal process. Also, the offender may have moved out of the jurisdiction.

A further impediment to the successful prosecution of historical sexual abuse cases is that records in institutions may have disappeared. Moreover, in the past, there was inadequate collaboration and sharing of information between professionals in institutions.

In 2006, Parliament and society as a whole began to realize that adult victims of child sexual abuse also needed protection in order to successfully prosecute perpetrators of these offences. Bill C-2 introduced significant amendments to the *Criminal Code*, designed to protect both children and vulnerable adults from sexual abuse and exploitation. It changed some of the provisions on sentencing for

child sexual abuse offences, including a minimum mandatory sentence for specific sexual crimes. The legislation offered important protections to adult witnesses of sexual abuse, designed to facilitate the giving of testimony in these cases.

The expert testimony given at the beginning of the Inquiry, before evidence was heard on the responses of the institutions to allegations of abuse of young persons, was very valuable to me, to the parties, and to members of the public.

The Impact of Child Abuse

Over thirty victims and alleged victims testified at the Inquiry. Some were in their mid-thirties when they gave their evidence; others were in their forties and fifties; and some were sixty years old. The victims and alleged victims included a priest, a film producer and director, and a lawyer. Many of the other victims and alleged victims were in low-paying jobs such as construction and in factories, several had difficulty maintaining steady employment, and a significant number were unemployed. These victims and alleged victims of child sexual abuse described how they suffer from post-traumatic stress disorder, have severe depression, and have panic attacks, problems that for many have impeded them from either seeking or holding down a job.

Victims, alleged victims, and their parents, spouses, and siblings painfully discussed the effects of the abuse, which included lack of trust in authority, failure in school, inability to have intimate relationships, inability to parent their children appropriately, attempts at suicide, addiction to drugs and alcohol, and the fragmentation of their families. The effects have been and continue to be psychological, social, and financial. The impact of this historical child sexual abuse mirrors much of what was described in the expert testimony by psychologists, social workers, police officers, and legal experts in child sexual abuse.

Witnesses testified that when they were children in Cornwall they were sexually abused by teachers in elementary and high school, by foster parents while they were in the care of the Children's Aid Society, and by priests in the Catholic Church. Others stated they were sexually violated by probation officers, as well as by other members of the Cornwall community. The acts of sexual abuse, according to these witnesses, took place on Church property and at youth retreats with the Catholic Church, in foster homes, in schools, and at the workplace of probation officers. Others said they were sexually abused as children in swimming pools and change rooms, in cars, in trailer parks, in motels, in store basements, as well as in the homes of the perpetrators. For some of the victims and alleged victims, the abuse began when they were very young children.

Several of the victims and alleged victims described the grooming process and the gifts, alcohol, and money they received from these sexual predators.

Some of the alleged perpetrators were criminally charged, and a few were convicted of these acts of child sexual abuse. However, some of these alleged offenders died or committed suicide before their criminal trial or before they were even charged. In some circumstances, proceedings were stayed by the court because of the long lapse of time in the prosecutions. Criminal trials of some of these alleged offenders did not proceed for a variety of reasons, discussed in detail in the Report. There was also testimony that convicted offenders continued to sexually abuse children in the Cornwall community after they were sentenced or while they were on probation.

The effects of the child sexual abuse on these victims and alleged victims were both immediate and long term. There were serious repercussions throughout their childhood, and the abuse continued to deeply affect them psychologically, academically, economically, and socially. It affected their ability to trust, to sleep, to love, to parent, and to economically sustain themselves and their families. The desire to live was greatly diminished and sometimes non-existent. The spouse of one of the witnesses described the child sexual abuse sustained by her husband as “a life long sentence.”

Alienation from parents and the fragmentation of families were other serious impacts of the sexual abuse sustained by child victims. Lack of trust in authority and failure in school were also experienced by victims and alleged victims.

Abandonment of religion was another consequence of sexual abuse by members of the clergy. Confusion about their sexuality and the inability to be intimate were other impacts repeatedly described at the Inquiry by victims and alleged victims.

Victims and alleged victims described their poor parenting skills, which they attributed to the sexual abuse they were subjected to as children. One alleged victim stated that he had difficulty having physical contact with his baby. “Changing my own child’s diapers felt kind of awkward because of what had happened to me,” he said in his evidence. Others stated that they were not able to allow their adolescent children to develop the skills necessary to become independent. They over-protected their children.

Job instability and the resultant negative financial repercussions was a further impact of abuse described by witnesses at the Inquiry. Inability to deal with authority and difficulties with alcoholism have been impediments to employment stability. One individual stated that as a result of being sexually abused by a male perpetrator, he has difficulty interacting with men, including fellow employees at work. Another stated that he is fearful of males in positions of authority.

The serious psychological effects of childhood sexual abuse throughout their adult years were described. Some victims and alleged victims testified that the abuse they sustained as children has impeded their ability to work. Some stated that they suffer from depression, insomnia, anxiety attacks and migraines, and have “trouble finding the energy to perform even the most menial of tasks.” They also discussed their suicide attempts.

Guilt and a sense of responsibility for the sexual acts perpetrated on them as children continue to haunt many of the victims.

Expert Evidence on Risk Factors for Child Abuse in the City of Cornwall

Robert Fulton, a social worker with expertise in community needs assessment, presented evidence at the Inquiry on risk factors for child abuse in the City of Cornwall. Community needs assessments provide an estimate of the prevalence of harm in the community. In 2003, Mr. Fulton completed a community needs assessment report for the Children’s Aid Society (CAS) of Stormont, Dundas & Glengarry, the purpose of which was to provide the CAS with current data on the social, demographic, and economic forces that affect children and families in these counties. One of the prime reasons for the report was to assess the prevalence of child abuse. Most of the data on which the Fulton report is based is from Statistics Canada for the period 1991 to 2001.

As explained by Mr. Fulton, studies have demonstrated that adverse outcomes such as crime in a community, youth suicides, teenage childbirth, children killed in accidents, and substance abuse are highly correlated to child abuse. The Fulton study provides a community profile of Cornwall and the surrounding county, an area that has a number of known risk factors correlated with child abuse.

Cornwall has one of the highest concentrations of poverty in eastern Ontario, both in absolute terms and as a percentage of the population (2,455 families, or 19.0%). The gap between the poor and families living on more than \$80,000 per year has widened significantly in Cornwall, as well as other parts of Stormont. As Fulton states, “While personal wealth soared in Ontario by over 20%, Cornwall barely managed a 0.9% growth in personal income.”

A high percentage of adults in Cornwall (36.2%) have not graduated from high school. Furthermore, the City of Cornwall has one of the lowest percentages (56.4%) of young people aged fifteen to twenty-four in school, well below the provincial average. Moreover, Cornwall has a very high youth unemployment rate (15.8%).

Fulton concluded in his study that “Cornwall contains many of the classic indicators of stress, low SES (socio-economic status), and social disorganization, including net loss of people through migration”; “[n]o indicator of social

disorganization and stress speaks louder than population decline.” There was 3.7 percent decline in the population of Cornwall between 1996 and 2001.

Finally, and of importance to this Inquiry, Mr. Fulton concluded that three out of four of the “most critical adverse outcomes” connected with child abuse—crime rates, youth suicide, and accidental death among children—“are all significantly higher in Stormont than elsewhere in Ontario.”

Media Coverage of Allegations of Historical Abuse of Young Persons in the Cornwall Area, 1986–2004

Dr. Mary Lynn Young, Acting Director of the Graduate School of Journalism at the University of British Columbia, was qualified as an expert in media analysis at the Inquiry. She was asked to conduct a study of media coverage of allegations of historical abuse of young persons in the Cornwall area from 1986 until the end of 2004. Her study of this period involved print, radio, and television broadcast news reports from a media database that had been compiled by the Inquiry. Dr. Young concentrated on two main issues: (1) what media content or information may have influenced the institutions in their responses; and (2) how media coverage affected the understanding of the community regarding the social problem identified in Cornwall. The trends and changes in media coverage during this nineteen-year period were examined with a focus on both the nature and the amount of information made available through print and broadcast.

The specific research questions addressed by Dr. Young were as follows: (1) What information about the allegations of historical abuse of young persons in Cornwall was communicated to the public and did it change over time? In other words, what facts or frames were selected by journalists, and did the reporting change in the 1986–2004 period? (2) What key themes emerged and, in turn, were disseminated to the public? (3) Who were the key voices and agenda setters represented in the media coverage, and how were they framed over time? (4) What media genres were used to cover the allegations of abuse as they unfolded? Were they short news stories or longer-form investigative journalism? (5) What was the geographic diffusion pattern of the media coverage? Was it predominantly local media in Cornwall such as the *Standard-Freeholder* or the *Seaway News*? To what extent was there regional media coverage of the issue such as in the *Ottawa Citizen*, *Ottawa Sun*, or affiliates of the larger broadcast outlets in Ottawa, or national coverage such as *The Globe and Mail* or *National Post*? (6) What were the peak coverage times from 1986 to 2004?

Both qualitative and quantitative content analysis was conducted. The quantitative analysis examines who said what to whom, and with what purpose; it

seeks to identify general trends in the media content over time. The qualitative analysis, subjective in nature by contrast, focuses on how issues surrounding allegations of historical abuse were represented by the media. It examines the narrative, or framing, trends.

The document sample was created from the Cornwall Inquiry database of print documents and broadcast files. The database contained 1,329 unduplicated print media articles in the 1986–2004 period.

In her study of the print and broadcast media on historical allegations of sexual abuse of young persons in Cornwall in the 1986–2004 period, media expert Dr. Mary Lynn Young came to several conclusions.

The majority of news and information content originated from local media, which used few sources and which failed to provide “the necessary context and in-depth investigation that would reflect a best practices journalism model.” As Dr. Young stated, “[T]here was too little fact and too much conjecture.” When relevant facts were reported, “they were not presented in a coherent narrative—in one place,” to help the public understand the complex institutional and individual issues.

She concluded that there was too much speculation and insufficient facts in the print media, a lack of in-depth investigation and analysis, and limited verification of evidence. Other important findings from the media study were as follows:

1. The main information communicated to the public on the allegations of historical abuse of young people in Cornwall was framed within a legal context of ineffective policing.
2. The Cornwall Police and not other institutions—such as Ministry of Correctional Services or the Catholic Church—became the main media target for public complaint and critique over the period. Other institutions and organizations, said Dr. Young, “should very well have been asked a few more questions.”
3. The key voices and agenda setters in the media were government officials (including MPP Garry Guzzo), the police (including Perry Dunlop), victims, and citizens groups.
4. Issues were presented largely as event-centred news and there was a lack of in-depth analysis, which limited the amount of meaningful information available to the public. There was inadequate journalistic rigour respecting government institutions and their roles regarding the allegations of historical sexual abuse of young people in Cornwall.
5. The geographic diffusion pattern shows that coverage of the allegations originated largely in the local media, with sporadic coverage by regional and national media. Regional media became interested in the Cornwall

issue in 1994. The national media became more interested in the Cornwall issue in 1995, as a result of charges against Perry Dunlop under the *Police Services Act*.

6. Peak coverage in the 1986–2004 period occurred in four years, which corresponded with particular events:
 - a. media coverage in 1994 of the statement to police by complainant David Silmsner and the financial settlement;
 - b. initial calls for a public inquiry and Constable Perry Dunlop's resignation in 2000;
 - c. the Leduc trial and stay of proceedings in 2001; and
 - d. the end of Project Truth and charges against fifteen people on 115 counts of sexual abuse in 2002.
7. Media periodization of the incidence of historical abuse in the Cornwall area was largely incorrect. Media coverage, for the most part, constructed events around the allegations of David Silmsner's complaint and subsequent financial settlement. This focus neglected the fact that a priest in the Cornwall area, Father Gilles Deslauriers, had been convicted in 1986 of historical sexual abuse involving incidents that occurred in the 1970s. This is referred to in only a limited number of media accounts and was not extensively followed up.

Dr. Young concluded her report with the following statement: "In Cornwall, journalists barely scratched the surface and let one of the largest stories in the community remain clouded in rumours and allegations for more than two decades. It shows that best practices journalism matters for accountability and the ability of citizens to make sense of important issues in their community." Media coverage of the Cornwall issue on the whole "lacked in-depth analysis" and "verification and systematic sourcing." In Dr. Young's opinion, "[T]he citizens of Cornwall could have been better served" had the media quality been better.

Institutional Response of the Ministry of Community Safety and Correctional Services

The Ministry of Community Safety and Correctional Services (MCSCS) is responsible for establishing, maintaining, operating, and monitoring correctional institutions and probation and parole offices in Ontario. The Ministry currently has jurisdiction over offenders eighteen years and older who are on probation or are under conditional sentence orders requiring community supervision. It is also responsible for offenders under parole supervision. The Ministry operates over

thirty correctional facilities: jails and detention centres. There are approximately 120 probation and parole offices in Ontario.

Over the years, Correctional Services has expanded its programs and services. The Ministry provides custodial facilities, parole and probation offices, and community supervision; it offers community programs for offenders; it prepares reports for the courts to assist in sentencing convicted offenders; and it implements programs on prevention of crime.

Correctional Services is currently part of the MCSCS. In the past, it has existed as a separate ministry, the Ministry of Correctional Services, and has also been combined with other ministries such as the Ministry of the Solicitor General and the Ministry of Public Safety and Security.

The *Ministry of Correctional Services Act*⁷ specifies the duties for probation and parole officers. The responsibilities of an adult probation officer include preparation of court-ordered reports such as pre-sentence reports, reports for conditional sentences, post-sentence reports, and pre-parole reports for the Ontario Parole and Earned Release Board. Section 44(1) of the *Ministry of Correctional Services Act* delineates the duties of a probation officer with regard to reporting information to the court relevant to a disposition. Probation officers also make recommendations regarding community programs and supervision. Section 44(3) of the *Act* states that probation officers must perform other duties as assigned by the Minister, such as liaison with community agencies, community correctional stakeholders, the public, and victims. Probation officers have operational duties. They are expected to develop supervision plans, monitor and enforce probation conditions, conduct facility and community home interviews, implement offender rehabilitation plans, and liaise with Crown attorneys, the courts, and other community agencies.

When the Ministry of Correctional Services had responsibility for cases involving children and youth, the duties of probation officers were similar to those described above. Probation officers prepared supervision plans for young offenders based on need and risk. They were also responsible for supervision as well as enforcement of court-ordered community-based sentences.

The chapter on the institutional response of the Ministry of Community Safety and Correctional Services, as it is now known, begins with a discussion of problems confronting the Cornwall Probation and Parole Office. Allegations by probationers of sexual abuse by Cornwall probation officers came to the attention of the Area Manager in the early 1980s. Staff in the Cornwall office noticed inappropriate conduct by employees in that office. The response of the Ministry and its employees to allegations of abuse by probationers and former probationers,

7. *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22.

and to admissions by probation officers of sexual improprieties or other inappropriate conduct, are discussed in detail. Woven through the sections are recommendations that address such issues as training on male sexual victimization, conflict of interest principles, information sharing, institutional memory, critical incident information management, and audits and reviews of files of probation officers and other Ministry staff.

Area Manager of the Cornwall Probation Office Receives a Serious Complaint Regarding Probation Officer

When Peter Sirrs arrived in Cornwall to assume the position of Area Manager of the Cornwall Probation Office in September 1981, the office was located at 340 Pitt Street. Nelson Barque had been a probation officer for about seven years when Mr. Sirrs became the on-site Area Manager in Cornwall. Other probation officers in Cornwall at that time included Ken Seguin and Jos van Diepen. The support staff were Marcelle Léger and Louise Quinn. Prior to Mr. Sirrs' arrival, the Cornwall Probation Office had been supervised remotely; there had been no on-site managers.

The probation office moved to 502 Pitt Street, one month after Peter Sirrs became the Area Manager. Unlike in the previous location, at the new premises each probation officer had a private office.

The hours of the Cornwall Probation Office at the new premises remained 8:30 a.m. to 4:30 or 5:00 p.m. One evening each month, probation officers would meet with clients. The evening hours were approximately 6:30 or 7:00 p.m. until 8:00 or 9:00 p.m. Probation officers were required to record all contacts with their clients, including telephone communication. Mr. Sirrs testified that although it was the "preferred practice" for support staff to be present when a probation officer met with a client at the office at night, this did not occur "in every case." Nor was the presence of a second probation officer required when clients had appointments at the Pitt Street office in the evening.

As explained by Mr. Sirrs, one of his major responsibilities as Area Manager was to conduct case audits as well as performance appraisals. His role was to examine the files of the probation officers to assess the frequency and time of their meetings with probationers, whether they were making proper notations, and whether the supervision of probationers was in compliance with the particular probation orders. Mr. Sirrs was responsible for ensuring that Ministry guidelines, policies, and procedures were followed by the probation officers in the Cornwall office.

Mr. Sirrs was Nelson Barque's supervisor from September 1, 1981, until May 1982, when Mr. Barque tendered his resignation. Until a complaint concerning Mr. Barque was made to the Cornwall Probation Office in April 1982, Mr. Sirrs

considered Nelson Barque's performance satisfactory. But Mr. Sirrs' perceptions of Mr. Barque changed on April 8, 1982.

Mr. Sirrs spoke to Mr. Ronald St. Louis on April 8, 1982. Mr. St. Louis reported that a probationer, Robert Sheets, was engaged in a "flagrant use of alcohol and drugs" in contravention of his probation order. His complaint was directed against probation officer Nelson Barque for his inadequate supervision of Mr. Sheets. Robert Sheets was a boarder at the residence of Mr. St. Louis.

Mr. St. Louis reported an incident to Mr. Sirrs in which Robert Sheets had become violent while under the influence of alcohol and initiated a fight with two people. There was considerable damage to Mr. St. Louis' home and Mr. Sheets had threatened him with personal injury. Mr. St. Louis said he had reported this incident to the Cornwall police, who had referred him to Nelson Barque.

In this call, Mr. St. Louis expressed serious concern to Mr. Sirrs about Mr. Barque's supervision of probationer Robert Sheets. Mr. St. Louis claimed that not only was Mr. Barque aware of Mr. Sheets' use of drugs and alcohol but that the probation officer had in fact provided these substances to Mr. Sheets, in violation of the probation order. Mr. St. Louis also alleged that Mr. Barque was sexually involved with probationer Robert Sheets.

On the same day that Mr. Sirrs received this complaint, he contacted Mr. E.B. Toffelmire, Regional Administrator (Eastern Region) of Probation and Parole Services of the Ministry of Correctional Services.⁸ Mr. Toffelmire suggested that Peter Sirrs discuss the complaint with Mr. S. Teggart, Director of the Inspection and Investigation Branch, who in turn recommended that Mr. Sirrs conduct a preliminary investigation. It was suggested that Mr. Sirrs speak with the persons involved in the incident, including the victim and the police. The preliminary investigation was considered to be urgent.

Mr. Sirrs contacted the Cornwall Police Service (CPS) and met with Sergeants Masson and Laroche on April 9, 1982. These officers discussed incident reports in their possession that pertained to Mr. Barque. They informed Mr. Sirrs that they had received complaints about Mr. Barque from maintenance staff at 340 Pitt Street through the building supervisor, Mr. Gerald Levert. Mr. Levert had told the police that some of his staff had observed unusual activity involving Nelson Barque and young males in the evening, in and around the probation office. Both Sergeant Masson and Sergeant Laroche were also aware of rumours concerning the relationship between Mr. Barque and Mr. Sheets.

Mr. Sirrs also learned that the police had referred Mr. St. Louis to Mr. Barque, Robert Sheets' probation officer. Mr. Barque had met with Staff Sergeant Maurice Allaire of the CPS and Mr. Keith Jodoin, Justice of the Peace and Administrator

8. The position of Regional Administrator is also known as Regional Manager.

of the Provincial Court. Mr. Barque had discouraged the police from pursuing the matter further. He had indicated that he would take action with respect to Mr. Sheets' inappropriate behaviour and report back to Staff Sergeant Allaire. But Mr. Barque did not execute these undertakings, according to the information obtained by Mr. Sirrs.

Sergeant Masson told Peter Sirrs that he had informally counselled Mr. Barque regarding these rumours and his relationship with probationers, particularly Robert Sheets. The Cornwall police officer reported that Mr. Barque had acknowledged that he needed to do something about this.

Sergeant Masson also told Mr. Sirrs that on several occasions, Mr. Barque had attempted to persuade the CPS not to proceed with actions against particular probationers. In one circumstance, when Sergeant Masson was laying a charge against Robert Sheets, Mr. Barque was cautioned that he would be charged with obstruction if he continued to interfere with the police. Mr. Sirrs learned that incidents of a similar nature had occurred with other police officers. It was Sergeant Masson's view that Mr. Barque was too frequently in the company of Robert Sheets.

Mr. Sirrs interviewed several janitorial staff who worked at 340 Pitt Street, the former premises of the Cornwall Probation Office. Mr. Viau reported that when he was working one evening on the fourth floor of the building, which was where the probation office was located, he saw a young male with a small black moustache. The young man said that Nelson Barque had given him access to this area. Mr. Desnoyers stated that at about 11:45 p.m., he went to the fourth floor to look for one of the other janitors. As he walked out of the elevator, he saw Mr. Barque, shirtless and barefoot and carrying two jugs of water. Upon seeing Mr. Desnoyers, Mr. Barque quickly walked into the probation office. In addition, Mr. Benoit reported to Mr. Sirrs that on Mr. Barque's request, he stayed away from the area of the probation office. Nelson Barque told the cleaner that he did not want to be disturbed.

On April 14, 1982, Mr. Sirrs met with Mr. St. Louis, C-44,⁹ and C-44's father. Mr. Barque's probationer, C-44, had been living at Mr. St. Louis' house as a boarder. Mr. Sirrs learned that Mr. Barque made telephone calls to the St. Louis residence, often late at night, and sometimes visited the house.

C-44 told Mr. Sirrs that Mr. Barque knew that Robert Sheets and C-44 used drugs and alcohol. In fact, he said that both he and Robert Sheets had reported to the Cornwall Probation Office under the influence of these substances. C-44 also relayed that Mr. Barque brought homemade wine to him and Robert Sheets at the St. Louis home. In addition, C-44 reported that Mr. Barque had offered him wine at the Cornwall Probation Office and treated him to an alcoholic

9. Some individuals mentioned in this Report are referred to by monikers for confidentiality.

beverage at a restaurant in the Cornwall Square mall. C-44's father also told Mr. Sirrs that Mr. Barque had come to his home and given money to C-44 to purchase beer. As Mr. Sirrs wrote in his April 1982 report to Mr. Toffelmire, "[T]hese alleged incidents are in direct contravention of conditions on Probation Orders issued against both [C-44] and Sheets."

C-44 disclosed to Mr. Sirrs that Mr. Barque had engaged in sexual acts with him at the Cornwall Probation Office and at the probation officer's home. As Mr. Sirrs wrote in his report, C-44: "was un-equivocal in his admission he had engaged in homosexual activity with Mr. Barque on several occasions at both Mr. Barque's home and at the Probation Office. On other occasions, Mr. Barque had made sexual advances to [C-44] verbally and physically which were rebuffed." Mr. Sirrs considered these allegations of sexual involvement with clients to be "extremely serious." Mr. Barque was in a "[p]osition of authority, position of trust ... It was clearly contrary to Ministry and government policy ... [I]t was just the most serious of the issues."

Mr. Sirrs was disturbed by these revelations. He was also "very disappointed" with the police for not discussing Mr. Barque's inappropriate behaviour with him. Mr. Barque was interfering with or obstructing the police in their dealings with probationers, and the Area Manager expected to be given this information. Moreover, it concerned Mr. Sirrs that the police had not taken action with regard to the complaint of Mr. Levert and his janitorial staff. At least three police officers and Justice of the Peace Jodoin had information that Mr. Barque was sexually involved with or acting inappropriately with probationers, yet no action had been taken. In Mr. Sirrs' view, members of the criminal justice system had "overlooked" Mr. Barque's behaviour in efforts to protect him: "It was my sense that they regarded probation officers to some degree as colleagues, and in the same way that police have often overlooked behaviour on the part of their colleagues."

In my view, it was important for the Cornwall Police Service to provide this information regarding Mr. Barque's inappropriate conduct with probationers to the Area Manager of the Cornwall Probation Office and to other senior officials at the Ministry of Correctional Services, including the Regional Administrator. Mr. Barque was in a position of trust with regard to the probationers under his supervision. He was not only ignoring the probation conditions mandated by the courts but he was, in fact, facilitating the breach of his clients' probation. With this information, Ministry officials could have taken immediate steps to stop this highly inappropriate conduct of Mr. Barque with probation clients. Had the police provided this information to Ministry officials, other probationers supervised by Mr. Barque might not have been placed at risk.

Deputy Minister Deborah Newman recommended in her testimony that the Ministry of Community Safety and Correctional Services develop a protocol with

Justice partners, police, and the Crown to share information regarding allegations of sexual impropriety and other information. In my view, this is long overdue.

During the course of his investigation, Mr. Sirrs discovered that Mr. Barque had a lock on his door at the Cornwall office at 502 Pitt Street. Mr. Sirrs had the lock removed after he made this discovery.

Marcelle Léger, an administrative assistant at the Cornwall Probation Office, was interviewed by the Ontario Provincial Police (OPP) several years later, in 1995. Although Ms Léger claimed that she had no recollection of the interview, Detective Constable Zebruck's notes contain the following statement from Ms Léger: "Nelson had a lock put on his door. Installed soft lighting in his office claiming that it was more relaxing to interview clients at night." Ms Léger testified that she did not know when the lock was installed on Mr. Barque's door. Detective Constable Zebruck's notes also contain the following statement from this interview: "Liked to have younger clients. Wanted the ones charged with sexual offences."

Another statement from Marcelle Léger contained in the police notes says: "Some of his probationers would come more often than would be required." Ms Léger confirmed in her evidence that some of Mr. Barque's probationers "would just show up at the office without an appointment" and ask to see Mr. Barque. A further inscription in Detective Constable Zebruck's notes states: "Nelson would keep his clients in his office after hrs, tell staff to lock the door as they left; didn't want to be disturbed." Ms Léger stated that she would leave the office as soon as the last client had reported and lock the door of the probation office. It is evident that Ms Léger knew that the probationers would come to the probation office and visit Mr. Barque when they did not have scheduled appointments. She also knew that Mr. Barque had clients in his office after hours and that he instructed staff to lock the probation office door when they left the premises so that he would not be disturbed.

Louise Quinn was another administrative assistant in the Cornwall Probation Office. Ms Quinn noticed suspicious circumstances that, in hindsight, she agreed she should have perhaps discussed with the Area Manager. One such situation was when Mr. Barque telephoned Ms Quinn from outside the office and asked her to retrieve a file from his desk drawer. In the drawer she saw "pornographic material, magazines with explicit young boys." When Mr. Barque returned to the office, Ms Quinn asked him why he had this material. Mr. Barque explained that he had confiscated the magazines from a client. But Ms Quinn wondered why the pornographic material had not been destroyed by the probation officer. "Thinking back ... maybe it was a sign, but I didn't take it as a sign back then," she said at the hearings. In retrospect, Ms Quinn agreed that perhaps she should have discussed her discovery with Mr. Sirrs.

When Detective Constable Zebruck interviewed Ms Quinn several years later, she reported the following: “Saw homosexual porn magazines in his desk. Also magazines of naked young boys, some performing sex acts ... Asked Nelson why ... clothes were in the desk and he told me that [name removed] changed clothes there occasionally.” She also told the police, “Nelson had mentioned that he had homosexual relationships in the past when he was younger.”

Ms Quinn thought Mr. Barque was perhaps too involved with his clients but rationalized that “it was a social worker side of him.” She testified that given current greater awareness of sexual issues, her views and reactions would probably be different now if she discovered pornographic magazines or such clothing in the probation office.

Probation officer Jos van Diepen was another person in the Cornwall office who discovered pornographic material in Mr. Barque’s office. Mr. van Diepen also had suspicions about Mr. Barque’s relationship with probationers. When Mr. van Diepen began his employment at the Cornwall Probation Office at 340 Pitt Street in 1976, there was not sufficient space for each probation officer to have a private office. As a result, Mr. van Diepen would use the offices of colleagues to interview clients. He was in Mr. Barque’s office on one such occasion, in his first year as a probation officer. He opened Mr. Barque’s desk drawer to search for a pen and discovered pornographic material, a paperback book with drawings of paired males in various sexual positions, and some *Playboy* magazines. He also found handcuffs in Mr. Barque’s office.

When Mr. Paul Downing, Special Investigator for the Ministry, interviewed him in 2000, Mr. van Diepen claimed that after Mr. Barque had resigned from the Cornwall Probation Office in 1982, he had an “informal discussion” with Mr. Sirrs about the pornography found in Mr. Barque’s desk drawer. In response to Mr. Downing’s questioning as to whether he should have advised management of the pornography at the time it was discovered, Mr. van Diepen agreed that, in hindsight, he ought to have conveyed this information to a person in a management position at the Ministry.

Another issue of concern regarding Mr. Barque also occurred in Mr. van Diepen’s first year as a probation officer at the Cornwall office. In 1976, Mr. van Diepen had a seventeen-year-old client who had serious problems and was unable to live at home. Mr. Barque suggested that this probationer reside with Father Charles MacDonald, a parish priest in St. Raphael’s, northeast of Cornwall in Glengarry County. The church needed a janitor/groundskeeper, and Mr. van Diepen considered this a good opportunity for his client to work and have a place to live, and that it would help ensure he did not get involved in further difficulties. Within less than a week, the probationer returned to Cornwall and told Mr. van Diepen that he refused to remain at this parish because “Father Charles

was a queer” who “liked little boys.” The probationer told Mr. van Diepen that he had woken up to find Father MacDonald sitting on his bed. The seventeen-year-old did not provide further details.

Mr. van Diepen was “upset” and “angry” with Mr. Barque for suggesting this placement for his probationer and was concerned about the information that had been conveyed by the seventeen-year-old. Mr. Barque had placed a probation client “in a situation of risk” and “knew or ought to have known that that was not an appropriate placement.” Mr. van Diepen considered it his role “to protect that individual.” He decided to discuss this with Mr. Ken Seguin, the senior probation officer in the Cornwall office.

Jos van Diepen testified that in 1976 he was concerned about the vulnerability of children who had contact with Father MacDonald. Mr. van Diepen knew that Father MacDonald continued to be a parish priest for many years after 1976. He claimed that he expressed his concerns to Mr. Seguin, believing that was sufficient. Mr. van Diepen did not discuss the issue with management at the Ministry of Correctional Services, nor did he contact the Children’s Aid Society. As he said in his evidence, “I felt that I did what was appropriate” and that it was not necessary to take any further actions. Mr. van Diepen said he had “no knowledge of what happened” with regard to these issues. Mr. Barque continued in his position as a probation officer, and Father MacDonald remained a parish priest for many years.

Mr. van Diepen agreed that follow-up was important. He ought to have conveyed his observations and knowledge of Mr. Barque’s inappropriate conduct to management at the Ministry of Correctional Services. Had this been done in 1976, it is possible that measures would have been taken by Ministry officials to prevent Mr. Barque from further engaging in sexual and other inappropriate contact with young men, clients of the Ministry of Correctional Services.

Nelson Barque Resigns From the Cornwall Probation Office

After completing his investigation, Mr. Sirrs considered the allegations against probation officer Nelson Barque “without question” to be “extremely serious.” In his confidential report to Mr. Toffelmire in April 1982, Mr. Sirrs wrote, “Clearly the credibility of Mr. Barque as a Probation Officer as well as that of the Probation and Parole Service in Cornwall is at question. If all or part of these allegations are founded, then Mr. Barque would be unable to continue to function in his capacity as a Probation and Parole Officer.” Mr. Sirrs recommended that the matter be referred to the Inspection and Investigation Branch of the Ministry of Correctional Services for a thorough investigation. He also suggested that the allegations and information gathered in the investigation be presented to Mr. Barque.

Mr. Sirrs explained at the hearings why he thought the resignation of Mr. Barque was an appropriate response, and why he concluded that it was not necessary for the Ministry to take further action. The Area Manager argued that (1) termination or firing raises serious issues, both legal and under grievance with the employee association; (2) the process can be difficult and prolonged; (3) he believed that resignations had been the practice of the Ministry in similar situations; and (4) there was “concern for the prestige and the position of Probation in the community.” Mr. Sirrs thought that if the Barque matter became public it would tarnish the image of the Cornwall Probation Office.

Although Mr. Sirrs believed that a formal disciplinary process was more open and transparent, he took the position that resignation was “the most expeditious route to follow in everybody’s interest.” His superiors at the Ministry agreed.

Upon receipt of Mr. Sirrs’ report, Mr. Toffelmire wrote to Mr. Dickson Taylor, Director of Probation and Parole Services, to inform him of the completion of the preliminary investigation. Mr. Toffelmire stated that Mr. Sirrs had “reached a point beyond which he does not wish to continue the investigation,” and, “It has been most trying on him.” Mr. Toffelmire enclosed Mr. Sirrs’ report, making it clear that he “concur[ed] entirely with his recommendations.” In other words, the Regional Administrator (Eastern Region) of Probation and Parole Services seemed to agree that the resignation of Mr. Barque was appropriate.

On May 5, 1982, Mr. Barque delivered his letter of resignation to Mr. Sirrs. Mr. Sirrs completed an employee separation and work performance record for Mr. Barque’s employment at the Cornwall Probation Office for the period August 1974 to May 1982. The Area Manager rated Nelson Barque’s attendance, punctuality, and working relationship with his co-workers and supervisors as “very good” and his quality of work as “good.” Mr. Sirrs inscribed the word “resigned” as the reason for Mr. Barque’s separation. He stated that he would not rehire this employee. In the space for citing specific reasons, Mr. Sirrs simply wrote, “Mr. Barque submitted his resignation as a consequence of enquiries into his professional conduct and over involvement with clients.” No explanation or further details were provided.

When Mr. Sirrs completed this standard Ministry form on May 11, 1982, he was aware of Nelson Barque’s sexual relationships with at least two probationers, he knew that Mr. Barque had provided and allowed probationers to use alcohol and/or drugs in breach of probation orders, and he was aware of Mr. Barque’s interference with the police. But at the hearings, Mr. Sirrs could provide “no explanation” for the lack of these details on the Ministry form. He agreed that, in retrospect, someone reading this Ministry form would be unaware of the seriousness of the allegations against Mr. Barque.

It was extremely important for the Ministry records to contain the details under which Mr. Barque left his employment from the Cornwall Probation Office.

The document completed by Mr. Sirrs clearly did not elaborate on the reasons for Mr. Barque's departure. Specifying sexual acts with probationers, the supply of illicit substances in breach of probation orders, and interference with police might have caused some Ministry officials to question whether the resignation of Mr. Barque was an appropriate response. The Ministry might have initiated contact with probationers who had been subjected to these inappropriate acts by Mr. Barque and offered these victims counselling and other services. And perhaps it would have prompted some Ministry officials to implement changes in the supervision of probation and parole officers in the Cornwall Probation Office after Mr. Barque's departure. This would have helped to ensure that more young men were not subjected to sexual and other inappropriate acts by their probation officers, who were in positions of trust and authority over these probationers.

The McMaster Report: Inspection and Investigation Branch Decides No Further Action Is Necessary After Barque Resignation

Mr. Teggart asked Inspectors Clair McMaster and Robert Porter to investigate the alleged unprofessional conduct of Mr. Barque, probation and parole officer at the Cornwall Probation Office. The request for this investigation was initiated by Mr. Taylor.

Inspectors McMaster and Porter were briefed in Cornwall by Mr. Sirrs on April 29, 1982. The two inspectors proceeded to the CPS and met with Staff Sergeant Allaire and Sergeants Laroche and Masson. The three police officers confirmed that they had heard rumours regarding Mr. Barque's relationship with probationers and, in particular, Robert Sheets. In addition, they discussed Mr. Barque's attempts to interfere with the police on behalf of Mr. Sheets. The Ministry inspectors also interviewed the janitorial staff from the former location of the probation office.

Inspectors McMaster and Porter returned to Cornwall on May 4, 1982, and interviewed C-44, C-44's father, and Robert Sheets. C-44's father said that Mr. Barque had supplied his son with liquor and knew that his son often smoked "pot." Despite knowledge of this conduct, Mr. Barque did not breach C-44's probation. The Ministry inspectors also learned that C-44 had disclosed to his mother in approximately April 1982 that he was sexually involved with Mr. Barque.

On May 6, 1982, Inspector McMaster took a sworn statement from Mr. Barque in respect of the allegations of misconduct. Nelson Barque admitted that he had engaged in sexual relations with two probationers for whom he was responsible: Robert Sheets and C-44. Mr. Barque acknowledged that he had instigated the sexual relationships with the two probationers, which had taken place over a

one-year period. Mr. Barque also admitted that he gave C-44 and Robert Sheets alcohol in violation of their respective probation orders. When asked by Inspector McMaster why he had allowed them to consume liquor, Mr. Barque responded, “Because they asked me for it and I had to comply being involved with them in a homosexual relationship.” As Inspector McMaster stated in his report, Mr. Barque was “intimating that it was a form of blackmail.”

In his May 13, 1982, report to Mr. Teggart, Inspector McMaster concluded that Mr. Barque was “inappropriately involved with Robert Sheets and [C-44]” and that he had “effectively compromised his authority and position as a Probation Officer.” Despite these conclusions, Inspector McMaster recommended that no further action be taken by the Ministry of Correctional Services.

The same conclusion was reached by Mr. Teggart. In his confidential report of May 31, 1982, to the Deputy Minister, Mr. A. Campbell, Mr. Teggart states that although the investigation established that Mr. Barque did “supply alcoholic beverages” and was “homosexually involved” with two probationers under his supervision, no further action was required because the probation officer had resigned.

When Mr. Downing conducted an internal review in 2000, he did not find evidence that a full and thorough investigation of Mr. Barque’s activities had been undertaken by the Ministry. In my view, the Ministry of Correctional Services should have conducted a comprehensive investigation to determine the full extent of Mr. Barque’s inappropriate behaviour and to identify other probationers, such as Albert Roy, who may also have been sexually abused by Mr. Barque.

It is my conclusion that Mr. Sirrs and the Ministry of Correctional Services did not adequately supervise probation officer Nelson Barque. Moreover, Mr. Sirrs and the Ministry failed to implement changes in the Cornwall office regarding the supervision of probation officers after Mr. Barque’s departure for sexual improprieties with Ministry clients under his supervision. It is my view that applying the standards of that time, the decision to allow Mr. Barque to tender his resignation and the failure to provide details on Ministry work performance and employee separation forms of Mr. Barque’s inappropriate conduct with probationers demonstrated very poor judgment on the part of Ministry officials. Ms Newman stated that had she been confronted with the Barque situation, she would have terminated the probation officer’s employment at the Ministry. As the Deputy Minister testified, “[I]n that particular situation ... if I was making the disciplinary decision, I would say I would terminate the individual.” Mr. Sirrs confirmed at the hearings that no steps were taken to assist the victims of Mr. Barque after their probation officer resigned. The probationers were likely to

have required and might have been receptive to counselling and other professional services as a result of Mr. Barque's sexual behaviour and other inappropriate conduct. Failure to pursue the more formal disciplinary process at the Ministry and to furnish details on Ministry forms of the reasons for Mr. Barque's departure clearly had the effect of suppressing information regarding Mr. Barque's egregious and inappropriate conduct.

It is my recommendation that the Ministry of Community Safety and Correctional Services institute measures to ensure that detailed information on the reasons for an employee's departure from the Ministry, including details of inappropriate and sexual conduct, are provided on the employee separation and work performance records.

After Mr. Barque's resignation, no action was taken by the Ministry of Correctional Services to try to determine whether other probationers in Cornwall had been subjected to inappropriate conduct by their probation officers. Neither Mr. Sirrs nor Inspectors McMaster and Porter or other Ministry officials took measures to ensure that this assessment was done.

After Mr. Barque resigned from the Cornwall office, Mr. Sirrs did not convene a meeting or discuss with his staff the reason for Mr. Barque's departure. Nor did he ask his staff whether they knew or had concerns about inappropriate behaviour by Mr. Barque with probationers.

Mr. Sirrs testified that he "didn't really tell" his staff "anything" about the reasons for Mr. Barque's departure from the probation office. At the hearings, he said: "I didn't feel that it was my position to lay out the circumstances of Mr. Barque's resignation ... I concluded they would probably find out through the grapevine." Mr. Sirrs did not even discuss the reasons for Mr. Barque's resignation with Carole Cardinal, the probation officer who assumed responsibility for Nelson Barque's caseload.

It would have been prudent to conduct an investigation of all Mr. Barque's files to ensure that other probationers were not subject to inappropriate behaviour. As I discuss, beginning in the 1990s over thirty former Ministry clients made disclosures of sexual misconduct to the Cornwall Probation Office. Some of these allegations involved Nelson Barque, and a few of these disclosures were made to Ms Cardinal.

Mr. Sirrs was asked at the hearings to explain (1) his failure to advise his staff of circumstances surrounding Mr. Barque's departure from the Cornwall Probation Office; and (2) his failure to seek additional information about Mr. Barque's behaviour with his probationers. Mr. Sirrs replied that there was a Ministry policy that if staff "knew of something that was going on in the office that was inappropriate, they were required to advise their management, either

directly to the manager or, if that wasn't satisfactory, to a more senior manager." Mr. Sirrs simply relied on this policy and did not take proactive measures to seek out this important information.

Mr. Sirrs acknowledged that "in retrospect," it "probably ... would have been a good idea" to issue a memo or meet with his staff to remind them that they should report concerns or inappropriate conduct to him. This might have revealed information of which he and other Ministry officials were not aware, namely that other probationers had been victims of sexual and other inappropriate acts. Moreover, discussing these issues and concerns with his staff could have served as a deterrent to other probation officers who were contemplating engaging in such behaviour with Ministry clients. It could also have halted the inappropriate conduct of staff in the Cornwall office. Mr. Sirrs failed to stress Ministry policies and the ethical conduct expected of probation officers and staff.

Some years later, probationers disclosed that another probation officer in the Cornwall office, Ken Seguin, had engaged in sexual acts and other inappropriate conduct with them. And significantly, other probationers of Mr. Barque revealed that they, too, had participated in sexual acts with him and with Mr. Seguin.

Mr. Sirrs did not conduct a historical review of Mr. Barque's files to determine whether probationers other than C-44 and Robert Sheets had been involved in sexual relations with him, had been supplied with alcohol and other illicit substances, or had been involved in other inappropriate behaviour with this probation officer. Nor did anyone from the Ministry, stated Mr. Sirrs, suggest to him that such follow-up be undertaken. Mr. Sirrs agreed that in hindsight, it "certainly wouldn't have done any harm" to examine the files of Mr. Barque to assess whether other probationers in the past had been subjected to inappropriate conduct. If this had been done, perhaps names would have emerged such as Albert Roy, a probationer abused by Mr. Barque. Both former Deputy Minister Morris Zbar and Deputy Minister Newman agreed that examining the files was important. Mr. Roy Hawkins, the Regional Manager who replaced Mr. Toffelmire, also testified that it was "troubling" that Mr. Barque's clients weren't followed up by the Ministry. As I discuss, Mr. Barque pleaded guilty to indecent assault of Albert Roy and was sentenced in 1995 to four months custody and eighteen months probation. And significantly, a few weeks after he was interviewed by the OPP in June 1998 for the sexual assault of Robert Sheets and another probationer, C-45, Nelson Barque committed suicide.¹⁰

Mr. Sirrs was asked why, in his preliminary investigation, he did not contact other probationers supervised by Mr. Barque. His response was that it did not occur

10. Nelson Barque died on June 28, 1998.

to him at that time. And, he said, probationers tend to “generate unreliable information ... [G]enerally they can be less than factual about things, and so I would not have had a lot of regard for any complaint that they might have made, not having come forward themselves to initiate the complaint.” It is surprising and of serious concern to me that the Area Manager of a probation office decided not to contact possible victims of abuse by Mr. Barque because he believed probationers to be untrustworthy individuals. Mr. Hawkins, the Regional Manager, agreed that this was clearly not an appropriate management response.

It is my recommendation that the Ministry of Community Safety and Correctional Services develop a protocol to ensure that file reviews are conducted in circumstances in which there are allegations of sexual improprieties by Ministry employees of clients under their supervision. The Area Manager should examine the case notes of other clients under the employee’s supervision and conduct interviews with clients.

This was endorsed by Deputy Minister Newman when she gave her evidence at the Inquiry. Ms Newman testified that the protocol should also mandate an examination of case files when Ministry employees depart suddenly, or if there is a suspicious death. She also stated that a formal investigation should be conducted by the Ministry in circumstances in which suspicious patterns are discovered in the review of the case files. I agree.

Mr. Sirrs stated that after Mr. Barque resigned, he did not institute any changes in the office in terms of managerial oversight to eliminate the risk of something similar recurring. Mr. Sirrs considered whether perhaps other probation officers in the Cornwall office, such as Ken Seguin, could be involved in similar behaviour, but he dismissed this thought as without foundation. In my view, Area Manager Peter Sirrs and the Ministry of Correctional Services should have implemented changes in the supervision of probation and parole officers after Mr. Barque’s departure from the Cornwall Probation Office for his inappropriate behaviour with probationers.

A short time later, in 1983, Mr. Roy Hawkins replaced Mr. Toffelmire as Regional Manager (Eastern Region). Mr. Hawkins met with Peter Sirrs to obtain a briefing on the Cornwall Probation Office. But Mr. Sirrs did not convey any information to the new Regional Manager about the situation with Mr. Barque or his concern that other probation officers could be involved in similar inappropriate behaviour with Ministry clients.

In my view, it is essential that such information be communicated to officials who are assuming new positions in the Ministry of Community Safety and Correctional Services. It is my recommendation that the Ministry institute policies and procedures to ensure the transfer of such critical information to incoming area managers and to other officials assuming supervisory positions. A system

should be implemented to ensure that information on incidents is collected systematically. This information should be easily retrievable by Ministry officials at all levels.

Nelson Barque's Employment After Resigning as Probation Officer

Équipe Psycho-sociale is an organization in Cornwall that provides programs for children who live in the United Counties of Stormont, Dundas & Glengarry. It is composed of psychologists, social workers, and psychiatric consultants, who offer specialized services for children from infancy to eighteen years old who have mental health issues.

Pierre Landry, executive director of Équipe Psycho-sociale in Cornwall, placed an advertisement in the local newspapers in 1982 to search for additional staff. Nelson Barque, who had left the Cornwall Probation Office a few months earlier, responded to the advertisement. The curriculum vitae sent by Mr. Barque to Mr. Landry in July 1982 stated that from August 1974 to May 4, 1982, he was employed by the Ministry of Correctional Services as a probation officer in Cornwall. Mr. Barque listed the reason for leaving this position as conflict with Ministry rules. Mr. Peter Sirrs was listed as his reference.

When Mr. Landry interviewed Mr. Barque, he asked why Mr. Barque had left his employment at the Cornwall Probation Office. Mr. Barque responded that there was a political conflict, a new administration, a new direction with his supervisor.

Mr. Landry called Peter Sirrs. Mr. Landry explained that he was the executive director of Équipe Psycho-sociale, which provided mental health services, and that Mr. Barque had submitted an application for the position of social worker. Mr. Landry could not recall whether he explicitly told Mr. Sirrs in the August 1982 call that the Psycho-sociale team worked with children or that Mr. Barque would be providing services directly to children. But Mr. Landry stressed in his evidence that the Psycho-sociale team was well known in Cornwall in 1982.

In this telephone call with Mr. Sirrs, Mr. Landry asked the Area Manager for a reference for Mr. Barque. Peter Sirrs responded by asking Mr. Landry to send him a letter specifically requesting a reference for his former employee. Mr. Landry testified that at no time during this telephone conversation did Mr. Sirrs offer any details about Mr. Barque. Nor did he suggest or caution Mr. Landry that he should not hire his former employee.

Mr. Sirrs claimed that he “advised” Pierre Landry that he “would not employ Mr. Barque.” Not only was this disputed by Mr. Landry, but when Paul Downing conducted his investigation and spoke to Mr. Sirrs about the telephone call, Mr. Sirrs failed to inform him that he had cautioned the executive director of

Équipe Psycho-sociale not to hire Mr. Barque. When Mr. Downing interviewed Mr. Sirrs in 2000, Mr. Sirrs initially said he could not recall a telephone call with Pierre Landry regarding a job reference for Nelson Barque. Mr. Downing testified that it was only “later during the conversation” that Mr. Sirrs “acknowledged that there had been a telephone contact” but claimed “he had not released any information and had told Pierre that he needed the release form prior to providing any information regarding Nelson’s employment.”

After carefully assessing the documents and testimony of the witnesses, I have come to the conclusion that Mr. Sirrs did not advise Mr. Landry that he should not hire Nelson Barque in the telephone call.

On August 12, 1982, Mr. Landry wrote the requested letter to Mr. Sirrs asking the Area Manager for a reference for Nelson Barque. The letter specifically states that the position is for a social worker. Of significance is that it is clearly inscribed on the letterhead that the agency provides services to children and adolescents. Mr. Sirrs took the position that he did not receive the August 12, 1982, letter from Mr. Landry. As he said at the hearings, “I am quite clear that I didn’t receive the letter.”

Despite Mr. Sirrs’ contention that he did not receive Mr. Landry’s letter of August 12, Mr. Sirrs wrote to the executive director on August 23, 1982, providing an “employment reference” for Nelson Barque. Mr. Sirrs simply provided information about the dates of Mr. Barque’s employment in Cornwall with the Ministry of Correctional Services, and his position as a probation and parole officer. Mr. Sirrs does not mention the reason for Mr. Barque’s resignation nor suggest any inappropriate behaviour on the part of the probation officer. Peter Sirrs acknowledged that “it’s just tombstone data.” When Mr. Sirrs was asked by counsel whether he thought it was important to inform a prospective employer about the circumstances surrounding Mr. Barque’s departure from the Cornwall Probation Office, his response was: “I’m bound by privacy regulations and I’m responsible not to release information without the individual’s consent.” But Mr. Sirrs did not ask Mr. Barque whether he could release this information. Mr. Sirrs maintained, “[T]hat wasn’t my responsibility.”

It is significant that when Mr. Downing contacted Peter Sirrs in 2000, Mr. Sirrs initially claimed that he did not provide an employment reference for Nelson Barque. When Mr. Downing told Mr. Sirrs that he in fact had a reference letter in his possession, Mr. Sirrs’ response was that someone “must have forged” his signature.

It is clear from the evidence that Peter Sirrs provided a reference for Nelson Barque to Pierre Landry. Mr. Sirrs knew that Mr. Barque had applied for the position of social worker and would be working with schools in the Cornwall area. Mr. Sirrs was also aware that Mr. Barque would be interacting with special

needs children. This was confirmed in the August 12, 1982, letter from Mr. Landry, which I find Mr. Sirrs received. The letterhead explicitly states that the agency provides services to children and adolescents with mental health issues. But Mr. Sirrs did not, either in his telephone conversation or in his written correspondence with Mr. Landry, disclose that Mr. Barque had left the probation office because of allegations of sexual improprieties with probation clients under his care and supervision at the Ministry of Correctional Services. The executive director of Équipe Psycho-sociale did not become aware of this information for four years, during which time Mr. Barque worked directly with children at this agency.

Mr. Sirrs should have told Mr. Landry that he had concerns regarding Mr. Barque for the position at Équipe Psycho-sociale. He should have conveyed to the executive director of the agency that Mr. Barque, while in a position of trust, had had sexual relationships with probationers under his charge. Moreover, the Ministry of Correctional Services should have had policies in place that would have precluded Area Manager Peter Sirrs from providing a reference of this kind for an employee such as Mr. Barque after his resignation from the Ministry for sexual improprieties with probationers under his supervision.

Mr. Barque worked for Équipe Psycho-sociale as a social worker from 1982 to 1986. He interacted with children at two elementary schools in Cornwall. Mr. Barque met privately with children at these two schools.

In May–June 1986, Mr. Landry received two or three anonymous telephone calls asking him to seek information about the reason for Mr. Barque's resignation from the Cornwall Probation Office. In one of the contacts, the anonymous caller stated that Mr. Barque had ended his career as a probation officer because he had sexually abused clients. Mr. Landry was also told in these calls that Mr. Barque socialized with adolescents at Cornwall Square, a shopping mall on Water Street.

Mr. Landry decided to go to Cornwall Square one evening. On this visit, he saw Mr. Barque on two or three occasions socializing with boys who ranged in age from sixteen to eighteen.

Within the next day or so, Mr. Landry confronted Mr. Barque. The executive director told the former probation officer that he had received anonymous calls in which serious allegations had been made against Mr. Barque, namely that he had made sexual advances or had engaged in inappropriate touching. Mr. Landry told Mr. Barque that he must leave his employment at the agency if this information was accurate. Later that day, Mr. Barque tendered his resignation.

Mr. Landry did not know that after he had resigned from Équipe Psycho-sociale, Mr. Barque taught as a supply teacher in a local high school. Nelson Barque again had contact with youths.

It was several years after Mr. Barque's resignation from Équipe Psycho-sociale that Pierre Landry learned through the media that Mr. Barque had been found guilty of sexual acts committed at the time he was a probation officer. Mr. Barque was sentenced in Cornwall on August 18, 1995, to four months incarceration and eighteen months probation for indecently assaulting Albert Roy, a former probationer, contrary to the *Criminal Code*.

Jos van Diepen, a probation officer at the Cornwall office, knew that Nelson Barque had been hired at Équipe Psycho-sociale. He was also aware that Équipe Psycho-sociale was a francophone agency that provided services to children with behavioural and psychological problems.

Mr. van Diepen testified that other staff at the Cornwall Probation Office also knew that Mr. Barque was working at Équipe Psycho-sociale after his employment as a probation officer. In the words of Mr. van Diepen, "[W]e were rather shocked" and "thought it was inappropriate."

Mr. van Diepen stated that he and others at the Cornwall Probation Office also had concerns when Mr. Barque worked as a supply teacher at the same French school board after he left his job at Équipe Psycho-sociale.

Tension Between the Area Manager of the Cornwall Probation Office and His Staff

Emile Robert became the Area Manager of the Cornwall Probation Office in 1985. Mr. van Diepen had submitted his name in the competition for the position of Area Manager. He was clearly disappointed that he had not won the competition.

The relationship between Mr. van Diepen and the new Area Manager was tense from its inception. Roy Hawkins was the Regional Manager of the Cornwall office when Mr. Robert became the Area Manager in 1985. He noticed the tension between Mr. Robert and probation officer Jos van Diepen.

Other members of the Cornwall probation staff also had a poor relationship with Mr. Robert and considered his managerial style alienating, inconsistent, and adversarial. The friction existed with probation officers as well as administrative personnel.

Mr. Robert's management style clearly had an impact on the morale of the office. Importantly, it had an effect on the willingness of probation staff to communicate with him and to discuss problems. Ms Cardinal limited "contact to only when necessary." Similarly, Mr. Gendron was reluctant to share any concerns he had with Mr. Robert.

The serious problem that arose from the poor communication was that probation staff did not discuss with Mr. Robert the questionable and inappropriate

conduct that they observed between probation officer Ken Seguin and probationers. Staff at the office were worried that if they disclosed some of their observations and concerns, the Area Manager could react negatively and impose adverse consequences on them. Probation officers in the Cornwall office testified that Emile Robert's management style was responsible for a poisoned work environment and a dysfunctional office.

It was apparent to staff within a few years after Mr. Robert became the Area Manager that he gave preferential treatment to Ken Seguin. This favouritism was exhibited in the scheduling of vacations, in failing to enforce office practices such as the sign-out sheets, and in having a "closed eye to some events" in which Mr. Seguin was involved. As Carole Cardinal said, Mr. Robert allowed Mr. Seguin "certain leverage that maybe others would not be granted." Mr. Robert's favouritism to Ken Seguin was also described by probation officers Ron Gendron and Jos van Diepen. The Area Manager's failure to discipline Mr. Seguin for improper behaviour with probationers, in particular his poor judgment in the Gerald Renshaw living arrangement as well as in the Varley incident, further consolidated their view that Mr. Robert gave special treatment to Mr. Seguin. The favouritism displayed to Ken Seguin by Mr. Robert and the poor communication and conflict between Mr. Robert and the rest of the staff resulted in an unhealthy work environment.

Staff at the Cornwall Probation Office were of the view that the Area Manager lacked judgment and social skills and acted arbitrarily. The conflict in the office between Mr. Robert and his staff created a situation in which probation officers were reluctant to discuss with the Area Manager concerns they had about Mr. Seguin's inappropriate behaviour with probationers and other young people. This was a significant problem.

Had Mr. Robert's managerial skills been better, had staff had a healthier and more trustful relationship with their Area Manager, and had Mr. Robert not given Mr. Seguin preferential treatment, it is possible that some of the inappropriate conduct between Mr. Seguin and probationers would have been disclosed and dealt with by Ministry officials at an earlier time.

Relationship Between Ken Seguin and His Clients

Probation officers and administrative staff at the Cornwall Probation Office thought Mr. Seguin had a particularly close relationship with probationers. They described his relationship with Ministry clients and former clients as "unusual," "very friendly," "too close," and crossing a boundary.

Mr. Seguin was the most senior probation officer at the Cornwall Office. He was known as "Mr. Probation."

Mr. Gendron testified that Mr. Seguin had a philosophical approach different from that of other probation officers in the Cornwall office; he subscribed to a “social work” rather than a “law enforcement” approach. Mr. Seguin was considered by his peers to be lenient in terms of enforcing probation orders such as community service, restitution, and reporting requirements. In Mr. Gendron’s view, Mr. Seguin “had a wider definition of ‘wilful failure’ than most probation officers.”

Jos van Diepen agreed. One of his clients complained to Mr. van Diepen for requiring him to complete his community service and argued that Mr. Seguin did not enforce the prescribed hours of community service. In fact, probationers would often request Mr. Seguin as their probation officer.

Ms Cardinal and other probation staff watched Mr. Seguin smoke and chat regularly with Ministry clients outside the office. In Mr. van Diepen’s opinion, Ken Seguin engaged with his clients “socially rather than professionally” and was “not performing the duties properly ... as a probation officer.”

Mr. Robert knew that clients would often request Mr. Seguin as their probation officer. He was also aware that Mr. Seguin smoked with Ministry clients outside the office. In his interview with Ministry Special Investigator Paul Downing, Mr. Robert mentioned that he saw “a number of rough looking youth in Seguin’s car” on Water Street in the early morning, which raised concerns for him as an employer.

Gerald Renshaw Moves in With His Former Probation Officer

On March 10, 1989, Emile Robert received correspondence from Ken Seguin to the effect that a former probationer, Gerald Renshaw, would be renting a room in his house the following day. Mr. Seguin informed his Area Manager that he had supervised Gerald Renshaw from 1984 to 1986 and that, to his knowledge, Mr. Renshaw had not been in further trouble with the law.

Mr. Robert discussed the contents of the letter with Mr. Seguin on March 10, 1989. In his testimony, the Area Manager claimed that he reviewed the Ministry policy on conflicts of interest with Mr. Seguin. Mr. Robert stated that according to policy at that time, it was necessary only for Mr. Seguin to advise him in writing of his contact with a former client. Mr. Seguin was not required to obtain the permission of his Area Manager to have his former probationer reside with him. During this discussion, Mr. Seguin reiterated to Mr. Robert that he had supervised Gerald Renshaw when he was on probation several years earlier and that no further offences had been committed since that time. Mr. Seguin explained that Mr. Renshaw was experiencing difficulties in his relationship with his girlfriend and was looking for a place to live for a short, but indeterminate, period.

The May 1986 policy on conflict of interest governed Ken Seguin at the time he discussed with Mr. Robert the lessee/lessor arrangement of Gerald Renshaw at his home. It is important to note that three months after Mr. Seguin informed Mr. Robert that a former probationer would be living with him, the Ministry issued a new policy on employee contact with ex-offenders, their families, and friends. It stipulated that the Ministry employee must both advise in writing and seek permission of his or her supervisor to have contact with an ex-offender.

Mr. Robert does not think that he reviewed Gerald Renshaw's file at the probation office after his discussion with Mr. Seguin. At that time, Mr. Robert did not know that some of Gerald Renshaw's brothers had been probationers supervised at the Cornwall Probation Office. Robert Renshaw, Gerald's brother, testified that Mr. Seguin had sexually abused him and that some of the abuse had occurred at the Cornwall Probation Office. Mr. Robert maintained that if Mr. Seguin had links to siblings of Gerald Renshaw, it was Mr. Seguin's responsibility to advise him of these connections. Mr. Robert acknowledged that in retrospect, perhaps he should have asked Mr. Seguin in March 1989 whether Gerald Renshaw was related to the other Renshaw boys who had been on probation in Cornwall.

In my view, Mr. Robert should have performed some due diligence and checked the files at the probation office on Gerald Renshaw and his brothers. As Regional Manager Roy Hawkins stated, Mr. Robert should also have obtained information on Gerald Renshaw's current circumstances.

Mr. Robert considered this an unusual situation. He had asked Mr. Seguin to postpone the move by Gerald Renshaw to his home because Mr. Robert wished to consult the Regional Manager about the matter.

Ten days after receiving Ken Seguin's letter, Emile Robert sent a very brief letter to Mr. Hawkins. Mr. Robert simply enclosed the March 10, 1989, correspondence that he had received from Mr. Seguin, described it as "self-explanatory," and made the following request: "I would appreciate receiving some direction from you regarding this matter." The Regional Manager's immediate reaction was that this situation was out of the ordinary.

In Mr. Hawkins' view, contact was to be terminated between a probation officer and a probationer after the supervision ended. Mr. Hawkins sent a letter to Mr. Robert on March 29, 1989. He wanted a Canadian Police Information Centre (CPIC) check on Gerald Renshaw; that is, verification of electronic police records to assess whether this man had been involved with the justice system since his probation, as well as details of his criminal record. Mr. Hawkins also advised Mr. Robert that if Gerald Renshaw had encounters with the law in the future, the probation office should be notified, and that Mr. Seguin should not be

involved in any supervisory role if Mr. Renshaw again became a Ministry client. Mr. Hawkins also had concerns about the security of the Cornwall Probation Office, in particular that “a former probationer living with a probation officer might have access to the keys, gain access to the office and confidential information on either his own files or other files.” After Mr. Hawkins sent this letter and discussed these issues with Mr. Robert at the end of March 1989, he had no further involvement with the Gerald Renshaw issue.

Mr. Hawkins did not know the details of Mr. Renshaw’s former conviction or probation three years earlier. Nor was he familiar with Mr. Renshaw’s current situation: his personal circumstances, whether he was employed, or his relationship with Mr. Seguin. None of this information had been provided by Emile Robert. Mr. Hawkins agreed that he could have asked for this information. He also said that if it had come to his attention that individuals in the Cornwall Probation Office knew or suspected that Mr. Seguin and Mr. Renshaw were in a sexual relationship, this “absolutely” would have changed the situation.

In my view, Mr. Hawkins should have followed up with Mr. Robert and asked him to provide information concerning Ken Seguin and his former probationer, Gerald Renshaw. The Regional Manager, by examining a situation he found unusual, might have obtained important information that would have caused him to question the appropriateness of Mr. Seguin’s relationship with Ministry clients and former clients. Mr. Hawkins did not know that staff in the probation office considered it highly inappropriate that former probationer Gerald Renshaw was moving into the home of his former probation officer, Ken Seguin.

Mr. Robert acknowledged in his testimony that knowing what he now knows, he probably would have handled the situation differently. The former Area Manager also maintained that if Mr. Hawkins had wanted additional information, his superior could have asked him to conduct further investigatory work on Mr. Seguin or Gerald Renshaw. Mr. Robert testified that at no time did Roy Hawkins criticize him for the manner in which he handled the Renshaw situation. In my view, neither the Area Manager nor the Regional Manager carefully examined the relationship between Mr. Seguin and his former probationer, nor the propriety of Gerald Renshaw’s living arrangement with his former probation officer.

Staff at the Cornwall Probation Office testified that they considered the living arrangement of Gerald Renshaw with his former probation officer, Ken Seguin, inappropriate. Mr. van Diepen stated that at the time Gerald Renshaw moved into Mr. Seguin’s home, there was discussion about this situation among staff at the Cornwall office. Probation staff were concerned about both the actual and the perceived conflict of interest.

Mr. van Diepen “strongly disagreed” with the approach of Ministry officials to the Renshaw—Seguin living situation. In his interview with the OPP in February 1994, Mr. van Diepen told Constable Genier and Detective Constable McDonell, “Ken and Gerry were lovers, Gerry owed Ken about \$10,000.” Jos van Diepen further stated that after Mr. Seguin’s death in November 1993, “there were a lot of rumours and discussions ... that Mr. Renshaw had been living there and that there was a relationship other than just a tenant.”

When probation officer Carole Cardinal learned that one of the Renshaw boys was living with Mr. Seguin, she was also “surprised” that Ministry officials had not taken issue with what she perceived to be an “unacceptable” and “inappropriate” arrangement. To Ms Cardinal, the fact that Gerald Renshaw was paying room and board to Mr. Seguin was irrelevant, as was the fact that his probation had ended three years earlier. Ms Cardinal testified about the importance of maintaining a personal and professional boundary with clients and former clients: “[H]aving an ex-offender residing with you ... creates ... a huge conflict of interest”; “it was inappropriate and should not have been approved.”

When interviewing Emile Robert in 2000, Paul Downing discussed the Renshaw move in 1989 into Mr. Seguin’s home. It was clear to the Ministry Special Investigator that Mr. Robert had had “suspicions” and concerns in 1989 about Mr. Seguin’s association with clients outside the workplace. Mr. Downing testified that in his “experience, it’s not very often that someone who is in Ken’s position would normally be permitted to have an offender live with him” or an “ex-offender.” He would have expected Mr. Robert, in his position of Area Manager, to thoroughly review the matter.

Gerald Renshaw stated that he lived with his former probation officer, Mr. Seguin, for approximately one and a half years. He was having difficulties in his relationship with his girlfriend, and Mr. Seguin’s home in Summerstown was near to his place of work. Mr. Renshaw testified that he, Mr. Seguin, and Mr. Seguin’s boss, “Emile,” signed a paper at the probation office that addressed this living arrangement. Mr. Renshaw confirmed that this document was signed after he had moved into his former probation officer’s home. He also stated that on February 27, 1989, when he was living with Mr. Seguin, Ken Seguin co-signed a personal loan insurance application in the amount of \$9,700 for a vehicle.

Gerald Renshaw testified that he was sexually abused by Mr. Seguin over a number of years. He stated that it began when he was on probation under Mr. Seguin’s supervision. Mr. Renshaw stated that Mr. Seguin threatened to send him to jail if he did not comply with his sexual demands. He also testified that Mr. Seguin socialized with teenaged boys who were on probation. Gerald Renshaw went to bars with his probation officer, and Mr. Seguin allowed Gerald and other probationers to use his car. These young men were invited to Mr. Seguin’s home.

Gerald Renshaw testified that he was again sexually abused when he lived with Mr. Seguin. Mr. Seguin threatened him that if he refused to engage in a sexual relationship, he would be forced to pay all of the loan immediately. Mr. Renshaw also stated that Ken Seguin gave him money to buy drugs while he was living with Mr. Seguin in Summerstown. Mr. Renshaw testified that the sexual abuse stopped only after he moved out of Mr. Seguin's home.

The relationship between a perpetrator of sexual abuse and a victim is complex. As discussed in the expert evidence, victims often repeatedly and voluntarily return to the offender. They may not fully comprehend or appreciate that they are victims. Perpetrators often offer inducements such as a car loan and a place to live. The perpetrator may resort to financial, emotional, and other threats as a means of controlling the victim.

I agree with Mr. Downing's conclusion that Mr. Robert ought to have thoroughly reviewed the living arrangement between Gerald Renshaw and his former probation officer, Mr. Seguin. It is clear in both the 1986 Ontario government policy and in the June 1989 Ministry policy that the government is concerned about both actual and perceived conflicts of interest. It was incumbent on Mr. Robert and his superiors to fully examine the relationship between Mr. Seguin and his former probationer to assess whether an actual or perceived conflict existed in their living arrangements. Both Mr Robert and his superior, Mr. Hawkins, considered the living situation very unusual. Had the Renshaw files been examined by Mr. Robert or other senior officials at the Ministry of Correctional Services, information would have been obtained regarding Gerald Renshaw's probation as well as the probation of his siblings, who had also been under the supervision of Mr. Seguin. Had the Area Manager, Regional Manager, or other Ministry officials probed the situation more fully, perhaps they would have acquired information that would have raised concerns regarding Mr. Seguin's relationship with current and former probationers.

Had Mr. Robert or other senior Ministry officials discussed Mr. Renshaw's relationship with Mr. Seguin, they might have learned that Mr. Renshaw had moved into Ken Seguin's home before Mr. Seguin notified Ministry officials, that Mr. Seguin had co-signed a personal loan insurance bank application with Mr. Renshaw, and that Mr. Seguin was very involved with Gerald Renshaw's brothers and family. Perhaps Gerald Renshaw would have disclosed information regarding inappropriate behaviour engaged in by Mr. Seguin during his probation, or would have raised or confirmed suspicions respecting Mr. Seguin's interactions with other probation clients.

The 1989 policy explicitly states that Ministry officials should consider factors such as undue influence, favouritism, and conflict of interest. In my view, had Mr. Emile Robert and other officials examined these factors carefully, they might

have advised Mr. Seguin that this living arrangement with a former probationer should not take place. The 1986 Ontario government policy states that a public servant “shall abide by the advice given to him/her,” and the 1989 policy states, “Disciplinary action may be taken where the relationship is not reported or an order to terminate is not obeyed.”

In my opinion, the Ministry of Correctional Services, including the Area Manager and Regional Manager, did not take the appropriate measures to fully examine the living arrangements between Gerald Renshaw and his former probation officer, Ken Seguin. Had the relationship between Mr. Seguin and Mr. Renshaw been scrutinized more carefully, questions might have been raised about the probation officer’s relationships with current and former Ministry clients. It should have been apparent that the living arrangement between Gerald Renshaw and Mr. Seguin raised issues of both perceived and actual conflict of interest.

It is my recommendation that the Ministry introduce measures to ensure that its employees receive regular training and updating on conflict of interest principles and the ethical behaviour required of staff at the Ministry of Community Safety and Correctional Services.

The Varley Incident

On the evening of January 8, 1992, four young men arrived at Mr. Seguin’s home in Summerstown. One of these males, Mark Woods, was a Ministry client. Travis and Bob Varley, brothers who lived nearby and who often visited Mr. Seguin at his home, were among this group, as was their cousin, Andrew MacDonald. Mr. Seguin supplied alcohol to these four young men.

Mark Woods, was scheduled to attend the Cornwall Probation Office the following day for a pre-sentence report interview with Mr. Seguin. He had visited Mr. Seguin at his home that evening as he was worried about the sentence he would receive and wanted to discuss it with the probation officer. One of the conditions of Mr. Woods’ release was a 9 p.m. curfew.

After they left Mr. Seguin’s residence, Mark Woods was dropped off at his home by the other young men in order to meet his curfew. In the early morning hours of January 9, 1992, Travis Varley fatally shot his cousin, Andrew MacDonald, at the Varley home. Travis Varley was charged with second degree murder. He pleaded guilty to manslaughter.

Mr. Seguin did not inform Mr. Robert about the Varley incident until one week had passed. On January 16, 1992, Mr. Seguin told Mr. Robert that the Varley brothers had called him and asked if they could visit the probation officer at his home. Mr. Seguin claimed that when he opened his door on the evening of

January 8, 1992, he did not expect to see two other young men: Mark Woods and Andrew MacDonald.

When Emile Robert asked Mr. Seguin why he had allowed the young men to enter his home, the probation officer's response was that he had felt intimidated. The Cornwall Area Manager testified that he did not accept Mr. Seguin's excuse. After this discussion, Mr. Robert instructed Mr. Seguin to prepare an incident report.

When asked at the hearings whether Mr. Seguin had disclosed at that time that he had served alcohol to his Ministry client and other visitors, Mr. Robert replied that he could not remember. Later in his evidence, Mr. Robert stated he did not know that Mr. Seguin had supplied alcohol to these young men until he received the police report of the incident several months later, in September 1992.

Mr. Seguin prepared an incident report after this discussion. As Deputy Minister Deborah Newman explained, an incident report is to be generated when something critical has occurred. She considered the incident at Mr. Seguin's home a very significant occurrence. It was Ministry policy that an incident report was to be prepared immediately after the occurrence of such an event. But the report is dated January 16, 1992, eight days after the occurrence. It was sent at that time to Mr. Robert, who initialled it.

Mr. Seguin failed to include important information in this incident report—namely, that he had supplied alcohol to the Ministry client and other young men when they visited his home. This omission was significant.

Area Manager Emile Robert claimed that pursuant to Ministry policy, he faxed the incident report to Mr. Roy Hawkins at the regional office, as well as to the Information Management Unit in North Bay. Mr. Robert testified that he vaguely remembers speaking with Mr. Hawkins at that time, who, he claimed, instructed him not to impose any disciplinary actions on Mr. Seguin until information on the Varley incident was received from the police. But Mr. Hawkins denied that he received the incident report in January 1992. He also testified that Mr. Robert did not discuss the Varley incident with him at that time. It was Mr. Hawkins' practice to initial documents that he received. Moreover, had Mr. Hawkins received the incident report in January 1992, it is likely there would have been written correspondence from his office to Mr. Robert, as Mr. Hawkins considered this was a "very major incident." Mr. Hawkins also testified that he is "very doubtful" that Mr. Robert spoke to him shortly after the Varley incident, as he would routinely prepare correspondence on file to reflect the discussion of such a significant matter. Mr. Robert could provide no explanation at the hearings for the lack of receipt of the incident report by Mr. Hawkins. The Regional Manager said that he did not become aware of the Varley incident for several months.

Mr. Hawkins would have expected Area Manager Emile Robert to take action immediately upon receiving the incident report from Mr. Seguin. In Mr. Hawkins' view, the situation was likely to warrant a Ministry investigation, at which time Mr. Seguin's employment would probably have been suspended. Special Investigator Paul Downing agreed. At the very least, Mr. Downing thought there should have been a discussion as to whether such an investigation should be undertaken.

Deputy Minister Deborah Newman agreed. She stated that Mr. Robert should have immediately alerted Mr. Roy Hawkins to the Varley incident and should have forwarded the incident report forthwith to Mr. Hawkins and to the Information Management Unit in North Bay.

It is noteworthy that when Mr. Downing interviewed Mr. Robert in 2000, the former Area Manager did not mention either discussing or sending the incident report in January 1992 to Regional Manager Roy Hawkins.

I have come to the conclusion that Mr. Robert did not send the January 16, 1992, incident report prepared by Mr. Seguin promptly to Regional Manager Roy Hawkins. Nor did Mr. Robert discuss the Varley incident with Mr. Hawkins soon after the event. Moreover, the Area Manager did not impose any disciplinary measures on Mr. Seguin after the January 8, 1992, incident.

Mr. Robert testified that he decided not to take any action, such as disciplinary measures, regarding Mr. Seguin's behaviour until he received the police report. This did not occur until September 1992, eight months after the Varley incident.

At the end of August 1992, OPP Detective Constable Randy Millar of the Lancaster Detachment had a discussion with Mr. Robert about Mr. Seguin's involvement with the Varley group and the fatal shooting in Summerstown the previous January. Detective Constable Millar sent a report of the incident to Mr. Robert on September 3, 1992. The report was written after Travis Varley had been convicted of manslaughter and sentenced to two years less a day in custody. The OPP report stated that Travis Varley, the deceased Andrew MacDonald, and other friends "drank liquor and beer quite heavily for approximately 17 hours prior to the shooting." Detective Constable Millar stated that Mark Woods, the two Varley brothers, and the deceased arrived at Mr. Seguin's home at approximately 8:00 p.m. on January 8, 1992. Mr. Seguin allowed them access to his home: "[T]he boys explained that Mark WOODS was worried about what sentence he would get for his crime and wanted to talk to SEGUIN about that." Mr. Seguin served each of the boys a beer. As the group was leaving Mr. Seguin's home at about 8:40 p.m., Mr. Travis Varley went to the fridge and took another three bottles of beer.

As mentioned, Mr. Seguin did not include the information about the beer in the incident report that he prepared. Although Mr. Robert's evidence on this issue was inconsistent, Mr. Robert claimed that until he received the September 1992 police report from Detective Constable Millar eight months later, he was

unaware of the presence of alcohol. He said that he did not know Mr. Seguin had served beer to the four young men or that there had been heavy drinking on the night of the fatality. In other words, Mr. Robert claimed that this information had not been disclosed to him. Mr. Robert considered it unacceptable that a probation officer had allowed his client to enter his home and had provided alcohol to the client.

Probation officers in the Cornwall office, such as Carole Cardinal, knew that alcohol was involved in the Varley incident before the police report in September 1992. The week after the January 1992 Varley incident, Ms Cardinal learned from one of the OPP investigative officers, Detective Constable McDonell, that alcohol had been consumed at Mr. Seguin's residence. Ms Cardinal and the OPP officer discussed the inappropriateness of this behaviour by probation officer Ken Seguin.

Ms Cardinal prepared the pre-sentence report for Travis Varley, who pleaded guilty in May 1992. She had further discussions with Detective Constable McDonell as well as Crown Attorney Guy Simard, who both expressed concern about the conduct of Mr. Seguin. They stated that they would be discussing their concerns with Area Manager Emile Robert.

Ms Cardinal spoke to Mr. Robert about the discussions she had had with the OPP officer and the Crown attorney when she was preparing the pre-sentence report. Ms Cardinal believes that Mr. Robert was aware at that time that Mr. Seguin had served beer to the Ministry client and to the three other young men; this was because "there was open discussion" in the office about this "inappropriate" behaviour. She also stated that when Mr. Varley pleaded guilty to manslaughter in May 1992, the fact that alcohol was a significant factor in the incident was widely reported in the media.

Ms Cardinal was surprised at the content and tone of the September 3, 1992, report sent by OPP Detective Constable Millar to Mr. Robert. She had expected the police "to voice their dissatisfaction with such ... unprofessional behaviour by a probation officer." But the report was not critical of Ken Seguin's conduct and did not reflect the concerns that the OPP and Crown had previously discussed with her.

Five days after receiving the report of Detective Constable Millar, Mr. Robert sent the report to Mr. Hawkins. In his correspondence, dated September 8, 1992, Mr. Robert wrote that he was enclosing a "self-explanatory letter" from Detective Constable Millar for "Mr. Hawkins' perusal."

Mr. Robert testified that he recommended that no action be taken against Mr. Seguin because, based on his discussions with Detective Constable Millar, (1) Mr. Seguin had no advance knowledge that his client would appear at his home; and (2) Mr. Seguin was embarrassed about the incident. Mr. Robert

recommended “no further action be taken,” despite the fact that he knew there had been a serious violation of Ministry policies and that he himself believed that Mr. Seguin’s behaviour had been inappropriate.

Mr. Hawkins testified that he was “shocked” and “outraged” when he received the September 8, 1992, correspondence from Mr. Robert. Mr. Seguin’s involvement in the Varley incident was on January 8, 1992, and eight months had passed before Mr. Hawkins was notified about this matter. Mr. Hawkins thought this “very serious incident” had been treated superficially; more research and investigation were necessary. Moreover, he did not consider the information conveyed to him by Mr. Robert to be very credible. The Regional Manager also thought that the inappropriate conduct and judgment exercised by the probation officer was merely the “tip of the iceberg.”

Deborah Newman, Deputy Minister at the time she gave her testimony at the Inquiry, thought the September 3, 1992, letter from Detective Constable Millar to Mr. Robert disclosed serious issues that merited a Ministry investigation for the following reasons: (1) Mr. Seguin had failed to reveal in his incident report that he had served alcohol; and (2) the probation officer seemed to have significant judgment issues.

Mr. Hawkins responded to Mr. Robert’s correspondence on October 16, 1992. The Regional Manager considered Mr. Seguin’s involvement in the Varley matter to be in need of immediate attention and resolution. He raised the possibility of disciplinary action against Mr. Seguin. It is evident from his memo that Mr. Hawkins was concerned about access of the Ministry client to Mr. Seguin’s home, the serving of alcohol by the probation officer, and the discussions Mr. Seguin had had with a “person before the courts about sentence.”

Mr. Hawkins asked Mr. Robert to review the matter with Mr. Seguin and to obtain additional information. As Mr. Hawkins explained, “I was telling him that I regarded this matter much more seriously than either he or the police officer who had completed the report seemed to be taking the matter, and I wanted it to be looked at more seriously and thoroughly.”

It is noteworthy that although Mr. Hawkins viewed the Varley incident as “extremely serious,” he did not respond in writing to Mr. Robert’s letter for five weeks. Mr. Hawkins could not explain this delay when he testified at the Inquiry.

After receiving this letter from his Regional Manager, Mr. Robert decided to send a letter of counsel to Ken Seguin. A letter of counsel is a first warning to an employee that there is behaviour unacceptable to the Ministry that should not be repeated in the future. It is not part of the disciplinary process. As explained by Ms Newman and by Mr. Downing, the first step in the disciplinary process is a letter of reprimand. If any employee receives a letter of counsel, in contrast to a letter of reprimand, it is not a subject of grievance.

Mr. Robert decided not to suspend Mr. Seguin, give him an official reprimand, or terminate his employment. Nor did he recommend a Ministry investigation of Mr. Seguin's conduct as a probation officer.

About three months later, on February 5, 1993, Mr. Robert forwarded to Mr. Hawkins the November 1992 letter of counsel to Ken Seguin. In Mr. Hawkins' view, the Cornwall Area Manager "took the minimal amount of action, flowing out of my instructions, that could be taken." Mr. Hawkins considered the letter of counsel "a very weak response to a very serious situation." Mr. Robert had simply cautioned Mr. Seguin that it was improper to permit Ministry clients to visit his home and for Mr. Seguin to serve them alcohol. Despite the breach of Ministry policy on employee contact with clients, Mr. Robert failed to discipline Mr. Seguin.

Neither the Area Manager of the Cornwall Probation Office nor the Regional Manager, nor other officials at the Ministry of Correctional Services recommended that an investigation of Mr. Seguin's involvement in the Varley incident be undertaken.

Mr. Robert does not appear to have sought an opinion from Human Resources regarding possible disciplinary measures. He stated that had he suspended Mr. Seguin, the suspension would probably have been reduced through the grievance process. When asked why he did not recommend a Ministry investigation into this matter, Mr. Robert responded that such a request was not within his authority but rather was the responsibility of Mr. Hawkins. After receiving Mr. Robert's correspondence of February 5, 1993, stating that a letter of counsel had been sent to Mr. Seguin, Mr. Hawkins also did not take any further action.

In Mr. Hawkins' opinion, Mr. Robert could have requested a Ministry investigation of the probation officer's involvement in the Varley matter. And clearly, Mr. Hawkins himself could have initiated an investigation. Mr. Hawkins acknowledged that in retrospect, a Ministry investigation was something he should have considered.

Mr. Hawkins agreed that the grievance process had a chilling effect on the willingness of a manager to impose discipline on a Ministry employee. Decisions made by managers were often successfully challenged. The reluctance of managers to impose disciplinary measures, Mr. Hawkins conceded, was clearly a problem. Deputy Minister Deborah Newman also discussed the impact of the grievance process: "[I]n order to have discipline that's upheld, there may be times when you think you'd like to take more serious discipline but you know that it won't be upheld and ... if you terminate that employee they will be reinstated." She was not surprised that "it became a consideration for some managers ... [W]e were beaten down by grievances."

But Ms Newman thought a Ministry investigation of the Varley matter should have been undertaken. She also agreed that if the Area Manager was not inclined

to investigate, the Regional Manager could override that decision. Ms Newman considered the absence of an investigation a missed opportunity to seek more information about the behaviour of the Cornwall probation officer. I agree. In my view, Mr. Hawkins, Mr. Robert, and other Ministry officials should have initiated an investigation into the Varley incident and Mr. Seguin's contacts and relationship with Ministry clients.

In his evaluation of Mr. Seguin for the period July 1991–June 1992, Mr. Robert did not mention the violation by the probation officer of Ministry standards and his inappropriate behaviour in the Varley incident. On the contrary, Mr. Robert wrote, "Mr. Seguin is a very good employee. He has demonstrated a high level of initiative and proficiency in his work." Again in Mr. Seguin's performance appraisal for July 1992–June 1993, there is no mention of the Varley incident or the letter of counsel sent by Mr. Robert to Mr. Seguin in November 1992. And again Mr. Robert writes, "Mr. Seguin is a dedicated employee. He shows initiative and proficiency in his work. I am pleased with his work performance." Mr. Robert could not explain, when asked at the hearings, why he did not include the letter of counsel in Mr. Seguin's performance review.

Mr. Hawkins testified that he expected Mr. Robert to include the letter of counsel in Mr. Seguin's evaluation report. Mr. Hawkins said that if he was concerned that a matter was not referred to in the evaluation report, it was his practice to communicate this to the Area Manager in writing. However, Mr. Hawkins had no recollection of directing Mr. Robert to include the Varley matter and the letter of counsel in Mr. Seguin's performance appraisal.

Mr. Hawkins testified that although he was aware of the Varley incident in September 1992, he did not see the July 1992–June 1993 appraisal as it was not initialled by him.

Ms Newman was also of the view that the Varley incident should have been included in the performance evaluation. I agree. It was incumbent on the Area Manager to include this information in Mr. Seguin's performance appraisal. It was important that such evaluations clearly reflect the breaches of Ministry standards, the fraternization with Ministry clients, the serving of alcohol, and the inappropriate behaviour by probation officer Mr. Seguin.

Despite Mr. Hawkins' "outrage" at the Varley incident and Mr. Robert's poor handling of the situation, Mr. Hawkins himself did not reflect his concerns in Mr. Robert's evaluation report. This evaluation was signed by Mr. Hawkins three weeks after he received correspondence from Mr. Robert that a letter of counsel had been sent to Mr. Seguin. Yet Mr. Hawkins did not include any comments about the manner in which Mr. Robert had handled the Varley incident: that Mr. Robert did not notify him until eight months had passed, that Mr. Robert had not adequately investigated the incident, and that Mr. Hawkins thought that the

letter of counsel was an inappropriate response in the circumstances. Mr. Hawkins had “a number of concerns” about Mr. Robert’s competence as a manager and he thought that Mr. Robert handled the Varley situation very poorly, yet none of this is reflected in Mr. Robert’s performance appraisal.

Mr. Hawkins agreed that he could have specified in Mr. Robert’s evaluation that these areas required improvement. In my view, Mr. Hawkins should have delineated his concerns about Mr. Robert’s competence as a manager as well as his poor handling of the Varley incident in Mr. Robert’s performance appraisal. This would have ensured that regional managers who succeeded Mr. Hawkins, as well as other officials at the Ministry of Correctional Services, were apprised of and had access to this important information. Because these Ministry violations and poor management practices were not reflected in the performance appraisals of the probation officer and the area manager, supervisors and area managers who succeeded Roy Hawkins and Emile Robert and other Ministry officials might not have been aware of such matters as the Varley incident.

In my view, Mr. Emile Robert failed to adequately supervise Mr. Ken Seguin and to ensure that the Ministry conflict of interest policies were adhered to. Mr. Robert also failed to sufficiently discipline Mr. Seguin with respect to his inappropriate contacts with Ministry clients and his omission of critical information in the incident report regarding the presence of alcohol. The Ministry of Correctional Services also failed to ensure proper management of the Cornwall Probation Office and failed to thoroughly investigate deficient management practices in relation to the conduct of Mr. Seguin. The Ministry, through its employees, knew or should have known of Mr. Seguin’s inappropriate contacts with Ministry clients, which contravened Ministry policies and ethical principles applicable to probation and parole officers. Also, the Ministry and its employees failed to impose discipline on Mr. Emile Robert with respect to his deficient management practices regarding Mr. Ken Seguin.

Mr. Hawkins remained the Regional Manager of the Cornwall office until 1993. Bill Roy, the Regional Manager who succeeded Roy Hawkins,¹¹ noticed the tension between Mr. Robert and his staff. Throughout the 1990s, the relationship between Emile Robert and his staff deteriorated. The tension and acrimony escalated during the 1996 Ontario Public Service Employees Union (OPSEU) strike.

In 1996, Deborah Newman visited the Cornwall office and interviewed each employee: probation officers as well as administrative assistants. It was apparent to her that “there were very poor workplace relationships between the area

11. From 1993 to 1997, Bill Roy was the Regional Manager of the Eastern Office in Kingston.

manager, Emile Robert, and the staff of the Cornwall Probation and Parole Office.” Ms Newman transferred Mr. Robert in 1997 for a six-month period to the Rideau Correctional and Treatment Centre.

Ms Newman thought a mediator might be of assistance in resolving some of the tensions. As a result, Mr. Newell had meetings with staff from the Cornwall office in early 1998. After Mr. Robert returned to the Cornwall office and the mediation process had taken place, it was evident to Ms Newman that “the damage was irreparable.” In late 1998, Mr. Robert was transferred and left the Cornwall office for Ottawa.

The Establishment of the Independent Investigations Unit in 1992

The Independent Investigations Unit (IIU) was established in 1992. Lenna Bradburn became the manager of the IIU in September 1993 and remained in that position until December 1994.

The IIU was required to investigate all complaints of workplace discrimination, workplace harassment, and all complaints of sexual impropriety alleged to have been committed by employees of the Ministry toward offenders within its responsibility.

Ms Bradburn understood that sexual impropriety clearly fell within the responsibility of the IIU, and that the IIU terms of reference mandated investigation in such cases. However, since its establishment, the IIU had essentially investigated complaints of workplace harassment and discrimination.

Pursuant to the terms of reference, the IIU was required to notify the police of allegations of sexual assault or other serious criminal acts. Ms Bradburn explained that the IIU would often pursue its own investigation even in circumstances in which it had notified the police. This would occur as long as the IIU did not jeopardize the police investigation or a criminal prosecution. It is important to note that the terms of reference of the IIU did not require that a complaint be made in writing. Ms Bradburn acknowledged that a written complaint was not required to initiate an IIU investigation.

The IIU had a dual reporting relationship. It reported to the Deputy Minister of Correctional Services and to the Deputy Minister of Management Board Secretariat.

Lenna Bradburn, as manager of the IIU, reported to the Deputy Minister of Correctional Services, who was at that time Michele Noble. Ms Bradburn reported to the Deputy Minister on administrative matters such as the budget, staffing, and resources required by the IIU. In terms of IIU investigations, the Unit generally had contact with the Deputy Minister’s Office at the conclusion of its investigation, after the IIU had forwarded its report and recommendations to the Deputy Minister. The Deputy Minister would then decide the appropriate course

of action, including whether to implement recommendations put forth in the IIU report such as disciplinary measures.

Loretta Eley, executive assistant to the Deputy Minister at that time, agreed that it was the IIU's responsibility to assess whether the complaint fell within its mandate and to determine whether it would conduct an investigation. Once the investigation was completed, the IIU was to forward its report to the Deputy Minister. Any follow-up in terms of discipline or other actions fell under the authority of the Deputy Minister of Correctional Services.

Nowhere in the 1992 terms of reference does it state that the IIU will not conduct an investigation of sexual impropriety if a complaint is made concerning a deceased or former employee of the Ministry. When David Silmsers complained to the Ministry of Correctional Services that his former probation officer, Mr. Ken Seguin, had committed acts of sexual impropriety, the alleged perpetrator was no longer alive. Lenna Bradburn was manager of the IIU at the time when Mr. Silmsers contacted the Ministry.

Regional Manager Receives a Call from David Silmsers: Allegations of Sexual Abuse by a Former Probation Officer at the Cornwall Office

When Bill Roy, Regional Manager (Eastern Region), was on the telephone in Kingston in the late afternoon of December 15, 1993, his secretary and the Youth Services Coordinator walked into his office in a visibly anxious state. They gestured to Mr. Roy to conclude his call.

The Ministry staff told Mr. Roy that a man, waiting on the telephone, had alleged that he had been abused as a probationer by a probation officer who had recently committed suicide. The caller, Mr. Roy was told, was very agitated.

The male caller disclosed to Mr. Roy that he had been abused by Ken Seguin, his former probation officer. He said that he had a deal worked out with Mr. Seguin for a sum of money, but the "son of a bitch killed himself." Mr. Roy became upset and said that he did not wish to discuss the problem in this manner. According to Mr. Roy, David Silmsers responded, "Well, that's just the way it is and ... if I can't get it from him I'll get it from you."

Mr. Roy "started to get worked up." In the approximately twenty-five years that he had worked at the Ministry of Correctional Services, he never had been confronted with a situation such as this. The Regional Manager made it clear to the caller that he was "not inclined to write any cheques" but that he would follow up on this if the caller could provide his full name and telephone number. David Silmsers conveyed this information.

Mr. Roy told Mr. Silmsers that he would follow the Ministry procedures for issues of this nature. He explained that he would contact the Independent Investigations Unit, which was responsible for these types of complaints.

Mr. Silmsers said he needed support and counselling and added, “I’m not the only one” or “there are more of us.” It was at this point that the Regional Manager realized that there could be other victims. It was evident that Mr. Silmsers felt he needed counselling for the sexual abuse that had allegedly been committed on him in his youth by his probation officer.

David Silmsers told Mr. Roy that he had already notified the Cornwall Police Service (CPS) about the sexual abuse committed by Ken Seguin. But, he continued, the police, “were jerking me around” so he decided to tell them to “drop the investigation.” He mentioned that he had told the police that he had retained a lawyer and that he intended to pursue the matter civilly.

Mr. Roy testified that he “really did take” the matter “seriously” and that he had tried to convey this to Mr. Silmsers.

After receiving the December 15, 1993, telephone call from David Silmsers, Mr. Roy contacted a number of Ministry officials. The first call he made was to the IIU manager, Lenna Bradburn. Mr. Roy knew that the IIU investigated complaints of sexual improprieties or misconduct and that he should contact this Unit. He believed he was following Ministry policy by reporting the call from David Silmsers to the IIU.

On December 16, 1993, Mr. Roy spoke to Ms Bradburn. He reported that he had received a call from a person who alleged he had been sexually abused by his probation officer, Ken Seguin, who was a former Ministry employee. This probation officer, Ms Bradburn learned, had committed suicide three weeks earlier. Mr. Roy advised the IIU manager that the alleged victim, a young offender at the time of the abuse, “had been privately seeking restitution through his lawyer from the deceased party.” When Ms Bradburn received this call, it was the first time she had encountered a complaint of this nature.

On the same day, Mr. Roy also contacted the CPS and the OPP to report the complaint from David Silmsers. Mr. Roy spoke with Staff Sergeant Luc Brunet, head of the Criminal Investigation Branch at the Cornwall Police Service, regarding Mr. Silmsers’s allegations of sexual abuse by Ken Seguin. The police force, Mr. Roy learned, was well aware of these allegations, which had been the subject of investigation. But Staff Sergeant Brunet relayed that the police investigation had been stopped at the request of the complainant. Staff Sergeant Brunet said the Cornwall police were upset at Mr. Silmsers’s “change of heart” but that it was police policy, in such circumstances, to discontinue the investigation.

Bill Roy also contacted the OPP Lancaster Detachment. The officer to whom he spoke said that the OPP was aware of the Silmsers allegations against probation officer Ken Seguin, that he had been dealing with David Silmsers for some time, and words to the effect that Mr. Silmsers was “not reliable.”

Mr. Roy was surprised to learn that both the CPS and the OPP were aware of David Silmser's allegations against one of his former employees but that neither he nor other Ministry officials had been contacted regarding this complaint of sexual impropriety. It is essential that the police and the Ministry of Community Safety and Correctional Services develop a protocol to share such information.

On December 17, 1993, a call took place between Bill Roy's office and David Silmser. Mr. Silmser was very upset as he had expected the Ministry to contact him after his call with Mr. Roy. Mr. Silmser threatened to contact the *Ottawa Citizen* newspaper and to sue the Ministry of Correctional Services for a half million dollars if the Ministry did not promptly address his complaint.

Mr. Roy contacted Loretta Eley to alert her to the Silmser allegations. Ms Eley was also told that Mr. Silmser had been "negotiating a civil remedy" with Mr. Seguin before his death and that he was worried he would not receive his compensation. She also learned that he was threatening to contact the media and to launch a lawsuit against the Ministry if it did not respond to his complaint.

Ms Eley testified that Mr. Roy did not discuss Mr. Silmser's request for counselling and support for himself and others who had been sexually molested. Ms Eley claimed that had she been privy to this information, she would have referred Mr. Silmser to resources in the community.

Ms Eley considered this a serious matter. This was also the first time she had encountered an allegation of sexual improprieties on a probationer by a Ministry employee.

A conversation took place between Lenna Bradburn and Loretta Eley on December 17, 1993. The two senior Ministry officials discussed the Silmser complaint and the contact made by both Bill Roy and Ms Bradburn with the OPP and the CPS.

According to the notes of Ms Bradburn, Ms Eley "advised Legal Branch would lead and there was no action required of IIU at this time." Ms Bradburn testified that Ms Eley was not instructing her but rather that it was their "shared view" that the Legal Branch of the Ministry would "take the lead" on this issue, given the references to the alleged criminal activity and the financial settlement. Ms Bradburn testified that it was her decision alone.

Ms Eley claimed Ms Bradburn's note that the "Legal Branch would lead" was an inaccurate reflection of their exchange on December 17, 1993. The Deputy Minister's executive assistant contended that she was simply communicating to the IIU manager that she would alert the Legal Branch to the Silmser complaint in case the Ministry was sued.

In the mid-afternoon of December 17, 1993, Lenna Bradburn spoke to Bill Roy. The allegations by Silmser were discussed as well as the police contact. Inscribed in Ms Bradburn's notes are the following statements:

- Silmser has suggested that the ministry should be offering counselling to him and others like him
- draws parallel with Grandview.

Clearly, the manager of the IIU knew that David Silmser was asking the Ministry for counselling for the sexual abuse he had suffered from his probation officer, Ken Seguin. It is also evident from Ms Bradburn's notes that Mr. Silmser disclosed that there were other victims of sexual abuse, who should also be offered counselling by the Ministry of Correctional Services.

Bill Roy contacted David Silmser by telephone in the late afternoon of December 17, 1993, and Mr. Silmser again threatened to contact the *Ottawa Citizen* if the Ministry did not deal with his complaint in an expeditious manner. Mr. Silmser said he was not surprised that he had not heard from a Ministry investigator and added that this was precisely the way he had been treated by the police. Mr. Silmser made it clear to Mr. Roy that there was no point in phoning him again and that he expected an investigator from the Ministry to contact him.

This call was the last contact Mr. Roy had with David Silmser. Unfortunately, despite Ms Bradburn's request that Mr. Roy follow up with Mr. Silmser's complaint, the Regional Manager did not do so. Neither did Ms Bradburn or her staff in the IIU contact Mr. Silmser or investigate his complaint, despite the mandatory language in the IIU's terms of reference, that an investigation must be conducted for all allegations of sexual improprieties.

Despite the fact that there was no such requirement in the IIU terms of reference, a decision was made that the Silmser complaint should be made in writing before an investigation of the alleged sexual impropriety could be undertaken. After discussions between Loretta Eley and Lenna Bradburn, it was decided that Mr. Silmser would be asked to forward his complaint in writing to the Deputy Minister's Office if he wished to pursue his allegation of sexual abuse by his former probation officer. A decision was also made that Mr. Roy was the appropriate Ministry official to communicate this request to David Silmser.

Several important questions arise. Why was it decided that the Silmser complaint must be in writing? Why was the complaint to be forwarded to the Deputy Minister's Office? Why did the IIU not investigate this matter as mandated in its terms of reference? And why did the Ministry not make further contact with David Silmser after this decision was made? Although this memo states that Ms Bradburn asked Bill Roy to contact Mr. Silmser to convey the information that a written complaint must be sent to the Deputy Minister's Office, no such communication between the Ministry of Correctional Services and David Silmser took place.

A fundamental question is why the decision was made that the complaint must be in writing before an IIU investigation would take place. Ms Bradburn agreed in her evidence that a written complaint was not required in the IIU terms of reference. It had simply, she said, been a practice for complaints of workplace discrimination and harassment received by the IIU in the past to be submitted in writing. But this had merely been a practice, and importantly, this was a complaint of sexual impropriety by a former probationer, not a complaint of workplace harassment. Ms Bradburn agreed that probationers are in a vulnerable position with regard to the probation officers who supervise and exercise authority over them. But the manager of the IIU gave no thought at that time to the fact that requiring a complaint in writing might have created an obstacle for David Silmsers to pursue his complaint with the Ministry.

Loretta Eley also agreed that policy did not require that complaints be submitted to the Ministry in writing. Nor did Ms Eley consider that this requirement might prevent David Silmsers from pursuing his complaint with Correctional Services.

To Ms Eley, “it seemed very reasonable” for Ms Bradburn to instruct Bill Roy to contact David Silmsers and ask him to submit his complaint in writing before it was decided whether an IIU investigation would be undertaken. When asked why the executive assistant to the Deputy Minister was involved in this discussion about an IIU investigation, Ms Eley responded, “probably because I was new and didn’t know any better.”

To compound the problem, Bill Roy did not contact David Silmsers to inform him of the added necessity of filing a written complaint. Mr. Roy never sent David Silmsers the written correspondence. He testified that there were two reasons for this decision: (1) after reviewing the matter with his superior, Mr. J. O’Brien (Regional Director, Eastern Region), they “decided to not write until a letter could be written by K. Hogg,” a lawyer at the Ministry; and (2) Mr. Roy claimed that he did not know David Silmsers’s address.

These explanations are not convincing. As Mr. Roy acknowledged, he knew David Silmsers’s full name and phone number, and it would not have been very difficult to find his address. This was not attempted, nor did Mr. Roy follow up with the Legal Branch at the Ministry to determine whether they had corresponded with Mr. Silmsers. Mr. Roy claimed that he had planned, in accordance with Ms Bradburn’s request, to send a letter to Mr. Silmsers to ask that a written complaint be sent to the Deputy Minister’s Office. But this never occurred.

Lenna Bradburn testified that she was surprised that David Silmsers had not been asked to put his complaint in writing. The IIU manager agreed there was a lack of communication, a gap in terms of how the Ministry dealt with Mr. Silmsers’s complaint. There was also no follow-up by Ms Bradburn or her staff in the IIU to determine whether Mr. Silmsers had received this information. It is

clear from the experts on child sexual abuse that victims may have difficulty committing to writing the abuse they suffered as children. Ms Deborah Newman also thought the stipulation that the complaint be made in writing was an obstacle and unnecessarily stringent. Former Deputy Minister Morris Zbar made similar comments in his evidence.

Bill Roy did not know that the IIU never investigated David Silmsers's complaint of sexual impropriety by his probation officer. It was only when Mr. Roy received materials in late 2007 in preparation for his testimony at the Inquiry that he learned that "nothing did happen" with regard to the Silmsers allegation.

It is evident that Ministry of Correctional Services officials placed obstacles in the way of an investigation of Mr. Silmsers's allegations of sexual abuse by his former probation officer. Moreover, the Ministry failed to follow up with Mr. Silmsers to ensure that this complaint was investigated and given the serious attention that it warranted.

Lenna Bradburn, manager of the IIU, testified that there was no investigation of the Silmsers allegation in late 1993 that he and others had been sexually abused by a probation officer from the Cornwall Probation Office. Nor was any counselling offered to David Silmsers or other potential victims. Had an IIU inspector interviewed Mr. Silmsers, and had the files of probation officers at the Cornwall office been examined, a pattern of irregularities and improprieties would have emerged.

Ms Bradburn was not aware that in 1989, Ministry officials knew Ken Seguin was living with Gerald Renshaw, a former probationer, at his home in Summers-town. Nor was she informed about the Varley incident in 1992. Ms Bradburn also did not know that Nelson Barque, another probation officer, had left the Ministry as a result of allegations of sexual involvement with probationers under his supervision. The IIU manager did not know about these prior incidents because there was no investigation of the Silmsers complaint, the probation files of the Cornwall office were not reviewed, and these events were not brought to her attention by Mr. Roy.

Mr. Roy did not take measures to ensure that David Silmsers's files at the Cornwall office were examined to determine when he had been on probation and the probation officers who had supervised him. Nor were files of other probationers under Mr. Seguin's supervision examined. Mr. Silmsers had told Mr. Roy in the first telephone call on December 15, 1993, that there were "others like me." He had asked Mr. Roy for counselling and support, not only for himself but for others who had similarly been subjected to sexual acts by their probation officer in Cornwall. An audit was not conducted of Ken Seguin's files to determine which probationers were under his supervision and whether they had been subjected to sexual improprieties by this Cornwall probation officer or other probation officers at that office. As Mr. Roy acknowledged at the hearings, "[I]t

wasn't done." The Regional Manager added, "[I]t seems like some kind of dereliction," but "I had a lot of other stuff going on—to do I mean, that I didn't follow this particular case, no."

Nor was Loretta Eley aware of the Varley incident, or of former probationer Gerald Renshaw's living arrangements and his relationship with Mr. Seguin. Ms Eley also did not know that Cornwall probation officer Nelson Barque had sexual relationships with his probationers. Ms Eley agreed that it was important for Ministry officials making decisions on the Silmser matter to have this information.

There was no investigation of the Silmser complaint by the IIU or by other Ministry officials. Deputy Minister Deborah Newman acknowledged that had the Ministry of Correctional Services taken steps to investigate and address the Silmser complaint in 1993, it is possible that additional victims of abuse by probation officers in the Cornwall office would have come forward. Ms Newman thought that the Area Manager of the Cornwall Probation Office should have conducted a file review of the probationers under Ken Seguin's supervision. An investigation could have been conducted at that time by the Ministry, and information could have been shared with the police. Ms Newman agreed that had the IIU conducted an investigation in 1993 when Mr. Silmser contacted the Ministry, had there been a discussion with staff at the Cornwall Probation Office regarding the Silmser allegations, and had a review of Ken Seguin's files been conducted, additional victims of the probation officer might have come forward.

It is clear that the Ministry of Correctional Services and its employees, including Ms Bradburn and Ms Eley, (1) failed to ensure that an investigation of David Silmser's complaint of sexual abuse took place as mandated by the terms of reference of the IIU; or (2) contributed to the failure of the IIU to investigate Mr. Silmser's complaint of sexual abuse by his former probation officer.

Not only was there no IIU investigation of Mr. Silmser's complaint; there were no efforts made to determine whether other probationers had been sexually abused by Mr. Seguin. An examination of the probation files at the Cornwall office was not undertaken. Nor were David Silmser or other possible victims of abuse offered counselling or support to help them deal with the impact.

Ken Seguin's Suicide

Probation officers and administrative staff at the Cornwall Probation Office observed behavioural changes in Mr. Seguin prior to his death.

Ron Leroux, Mr. Seguin's neighbour and friend, also noticed a change in Ken Seguin's demeanour in the months before his suicide. Mr. Leroux was aware of calls from David Silmser, who alleged that his probation officer, Ken Seguin, had abused him. Ron Leroux knew that David Silmser had threatened to disclose the

abuse to the police and to Ken's boss, Mr. Emile Robert, if Mr. Seguin did not raise the prescribed sum of money. Mr. Leroux testified that he overheard discussions between Malcolm MacDonald and Ken Seguin regarding the Silmsers calls.

Mr. Seguin also told Gerald Renshaw about the repeated calls from David Silmsers and the demand for money. Mr. Renshaw did not understand at that time why Mr. Silmsers was making these demands. Mr. Seguin's anxiety and nervousness in the months before his death were very apparent to Gerald Renshaw.

Both Ron Leroux and Gerald Renshaw were with Ken Seguin on November 24, 1993, the evening before his death. Mr. Leroux and Mr. Seguin drove to Cornwall earlier that night to visit Gerald Renshaw and his girlfriend. The two men returned to Summerstown, and Ron Leroux stood on Ken Seguin's front lawn, chatting. The two men heard Mr. Seguin's telephone ringing; Ken Seguin said it was "David." Ron Leroux testified that he told Mr. Seguin not to respond to the call. He did not comply and Mr. Leroux could hear Mr. Seguin in the distance, raising his voice to the caller. Ron Leroux decided to return to his home. This was the last time Mr. Leroux saw Ken Seguin before he took his life.

David Silmsers alleged that he had been repeatedly sexually abused by Ken Seguin, beginning in the 1970s when he was fifteen years old. The abuse, he said, occurred at the Cornwall Probation Office and at Ken Seguin's home. He stated that Mr. Seguin provided alcohol to him at his home before he sexually assaulted him and that the probation officer threatened to revoke his probation if David refused to participate in specific sexual acts.

In statements made to the OPP, Mr. Silmsers said that prior to Mr. Seguin's death, he called Mr. Seguin at work and told him that he wanted a financial settlement. According to Mr. Silmsers, Mr. Seguin told him to contact his lawyer, Malcolm MacDonald. Mr. Silmsers told Mr. MacDonald that he wanted \$100,000 as compensation for the abuse. According to Mr. Silmsers, Mr. MacDonald said that he would speak to Ken Seguin and that Mr. Silmsers would receive a response on either Wednesday, November 24, or Friday, November 26, 1993. By the evening of November 24, Mr. Silmsers had not heard from Mr. Seguin. As a result, he decided to telephone Mr. Seguin at his home that night. Mr. Silmsers asked Mr. Seguin if he was prepared to enter a settlement with him by Friday. Mr. Seguin responded that he was uncertain whether he could come up with the money. He told Mr. Silmsers that Malcolm MacDonald would contact him the following morning. Mr. Silmsers said that he told his former probation officer that if he did not enter the settlement by Friday, he would retain a lawyer and commence a lawsuit against him. There was no response from Mr. Seguin, at which time David Silmsers said goodbye and ended the call.

Malcolm MacDonald was acting for Ken Seguin before the probation officer's death. Mr. MacDonald told the OPP that Mr. Silmsers had advised him in a call

on November 15, 1993, that he wanted money for the abuse and that if he did not get it, he would initiate a complaint with the Ministry. Malcolm MacDonald advised Mr. Silmsner that he would get back to him by the end of the week. Malcolm MacDonald stated that on November 19, 1993, they discussed the amount of \$10,000 per year for ten to twenty years.

On November 25, 1993, at 10:00 a.m., Mr. Seguin had an appointment for a root canal procedure. He was known for his punctuality. On the morning of November 25, 1993, the nurse from the dental office contacted the probation office as Mr. Seguin had not appeared for his procedure. Staff at the Cornwall Probation Office made telephone calls to his home in Summerstown but were unable to reach Mr. Seguin.

Mr. Robert decided to drive to Mr. Seguin's home. Ron Gendron agreed to accompany him. Mr. Robert contacted the OPP.

Mr. Seguin's car was parked in the driveway when they arrived at his home. They knocked on the door, but there was no response. As Mr. Robert and Mr. Gendron were leaving Mr. Seguin's property, the OPP arrived. They also climbed onto a ladder to peer into the windows on the second floor of Mr. Seguin's home. They did not see anything unusual.

Mr. Robert and Mr. Gendron returned to the Cornwall Probation Office.

When Ron Leroux arrived at his home in Summerstown on the afternoon of November 25, 1993, his wife, Cindy, told him that probation officials and the police had been to Mr. Seguin's house that day. He knew the place where Mr. Seguin hid a spare key to his house.

Ron Leroux and his wife, Cindy, entered Mr. Seguin's home. Mr. Leroux saw the banister "covered in blood" and then Ken Seguin's "charcoal grey" body "hanging on the door" of the bathroom.

Mr. Leroux testified that he decided to take Ken Seguin's telephone directory after he found his body, as he knew it contained names and phone numbers of probationers and former probationers. He did not want the police to have this information.

Prior to Ken Seguin's death, probation staff were aware of a possible connection between Mr. Seguin and the Silmsner complaint against Father Charles MacDonald. Ron Gendron had heard a rumour at the courthouse concerning David Silmsner, Ken Seguin, and Father MacDonald. Mr. Gendron testified that he had heard this rumour from the Cornwall police: "There was something about financial settlement, the church ... [N]obody knew what it was about ... but we knew whatever it was it was being hushed." Mr. Gendron said it crossed his mind that this could be an allegation of sexual misconduct. He testified that he had discussed this rumour with his colleague, Jos van Diepen, who had been concerned about Mr. Seguin's inappropriate behaviour as a probation officer.

Mr. van Diepen denied that this discussion with Ron Gendron had taken place at that time, and maintained that it was only after Mr. Seguin's death that he became aware of these rumours concerning David Silmsen, Mr. Seguin, and Father MacDonald.

Similarly, Carole Cardinal was aware of an investigation involving Father MacDonald. At the courthouse in Alexandria and from colleagues at the Children's Aid Society, Ms Cardinal heard discussions in September 1993 that "D.S." had made a complaint against Father Charles MacDonald. She learned that Constable Perry Dunlop of the CPS had taken Mr. Silmsen's statement to the Children's Aid Society. She and others concluded that "possibly Ken" was involved "because of his close association with Father Charles MacDonald ... [T]hey were such close friends." Ms Cardinal noticed that "Mr. Seguin became very unfocused in the months ... prior to his death," which, she said, further raised her suspicions that he was involved.

It is clear to me, from my review of the evidence, that staff at the Cornwall Probation Office knew that Ken Seguin was engaging in inappropriate contacts with Ministry clients. In fact, Mr. Downing concluded that Jos van Diepen knew more than he was willing to admit and believed that Mr. van Diepen had significant knowledge regarding Mr. Seguin's associations with probationers. This information should have been reported to their superiors at the Ministry, such as the Area Manager or others in management.

After Mr. Seguin's suicide, the Area Manager and other Ministry officials failed to react to increasing evidence that he had engaged in sexual and other inappropriate conduct with probationers under his supervision. The Ministry of Correctional Services and its employees failed to initiate a review of Mr. Seguin's files. Nor did the Ministry conduct an investigation of the operations and management of the Cornwall Probation Office.

Probationers who had been supervised by Mr. Ken Seguin and Mr. Nelson Barque began to disclose over the next years that they, too, had been sexually abused by these Cornwall probation officers. Had the Ministry and its employees undertaken a review of the files of these probation officers and had an investigation of the operations of the Cornwall office been initiated, more victims of abuse would have been found, men who were in great need of support and counselling.

Nelson Barque Charged With Gross Indecency and Indecent Assault of Probationer Albert Roy

Albert Roy was sixteen years old when he was criminally charged with stealing a car in Cornwall. This was the first time he had been in trouble with the law. Mr. Roy testified that he was sentenced to twelve months probation in 1977 and that

the conditions of his probation included a curfew, abstaining from alcohol, and meeting regularly with his probation officer.

Albert Roy was initially assigned to probation officer Ken Seguin. However, within about three months, when Mr. Seguin was away from the Cornwall Probation Office on vacation, Nelson Barque became his probation officer. Mr. Barque sexually abused Albert Roy during this period of supervision.

Albert Roy was reassigned to probation officer Mr. Seguin. He thought Mr. Seguin was Mr. Barque's supervisor and therefore decided to disclose the sexual abuse to him. But to Albert Roy's surprise, Mr. Seguin's immediate reaction to the probationer's disclosure was to tell him "that me and him could have more fun than I ever had with Nelson." Mr. Roy testified that Mr. Seguin soon also began to sexually abuse him.

Albert Roy said that Mr. Seguin abused him at the probation office, at Mr. Seguin's home, and in his car. Like Mr. Barque, Mr. Seguin also asked Albert to report to the probation office after hours, in the evening. Albert Roy testified that Mr. Seguin threatened to have him imprisoned if Albert reported the abuse to anyone. Albert Roy was sixteen years old when he was abused by Mr. Seguin.

It was not until many years had passed that Albert Roy decided to report the abuse of his former probation officers, Mr. Barque and Mr. Seguin, to the CPS. This occurred in November 1994. Mr. Roy was at that time thirty-five years old.

Mr. Roy was unaware of the reason for Mr. Barque's resignation in 1982. No one from the probation office contacted him after Mr. Barque's departure from the Cornwall office to determine whether other probationers were victims of sexual abuse by Mr. Barque.

In January 1995, Mr. Barque was charged with indecent assault and gross indecency of Albert Roy. The investigation of Mr. Barque by the police and the involvement of Crown in the prosecution and sentencing is described in detail in the Report. Nelson Barque pleaded guilty in July 1995. He was sentenced to four months custody and eighteen months probation.

After he had served his term in prison, Mr. Barque was assigned to a probation officer at the Cornwall office. Mr. Barque asked that he be supervised in Cornwall, not Ottawa. Mr. Robert acceded to this request. Regional Manager Bill Roy's advice was never sought as to whether it was appropriate for the former Cornwall probation officer to be supervised by that probation office. Mr. Roy agreed that guidelines should exist on this issue. The Regional Manager also agreed that for reasons of public perception and for the victim, who was a probationer abused by that probation officer at that office, Mr. Barque should have been supervised by a probation office in another location. Mr. Gendron supervised Nelson Barque in 1996 while he was on probation.

In my view, the Ministry of Community Safety and Correctional Services should develop a protocol that addresses the supervision by probation and parole

officers of former probation officers and other staff who are convicted for sexual and other inappropriate conduct with probationers. Issues such as the venue of the probation and actual and perceived conflict of interest by probation officers supervising the client should be addressed in the protocol.

Mr. van Diepen testified that after Mr. Barque was convicted for his indecent assault of Albert Roy, Mr. Robert did not convene a meeting or discuss the offence with probation staff at the Cornwall office. Neither the Area Manager nor other senior officials in Correctional Services organized such a meeting of staff.

During his supervision period, Ron Gendron discussed with Mr. Barque the offence committed on Albert Roy but did not learn any information beyond what was contained in the police report. Mr. Gendron's concern was recidivism—that Nelson Barque not re-offend. Mr. Gendron testified that he asked Mr. Barque whether he had sexually abused probationers other than Albert Roy. His response, which was unforthcoming, was that Albert Roy was the only probationer with whom he had engaged in sexual behaviour. Mr. Gendron was aware that Mr. Barque had resigned from his position in Cornwall as a probation officer because of sexual improprieties with a probationer under his supervision. Ministry officials such as Mr. Robert did not initiate a review of Nelson Barque's files to assess whether other probationers had also been victims of abuse by him. The Area Manager claimed that old files had been destroyed and it would have been difficult to identify Mr. Barque's more recent files as they were not on a computer system.

In my view, the Area Manager or other Ministry officials should have initiated a review of Mr. Barque's existing files to determine whether other probationers under his supervision were also subjected to sexual improprieties. It is important that the Ministry develop an information management system to ensure that information on critical incidents is collected systematically and that it is easily retrievable and accessible to Ministry officials at the local and regional levels.

On June 18, 1998, Mr. Barque met with OPP Detective Constable Don Genier and Detective Constable Joe Dupuis regarding the allegations of abuse made by C-45 and Robert Sheets. Mr. Barque denied having sexual contact with C-45 but admitted that he had been involved in sexual activity for one to one and a half years with Robert Sheets when Mr. Sheets was on probation. Mr. Barque admitted before his death to having sexual relationships with Robert Sheets, C-44, and Albert Roy. As is discussed in further detail in the Report, the OPP was planning to charge Nelson Barque in early July 1998 with indecently assaulting two other probationers, Robert Sheets and C-45. Ten days after the OPP interview of Mr. Barque involving allegations of indecent assault of C-45 and Robert Sheets, Mr. Barque committed suicide. On June 28, 1998, Nelson Barque was found dead in a local park from a self-inflicted gunshot wound to his head.

Allegations of Sexual Improprieties on Project Truth Website

In the summer of 2000, Jos van Diepen's daughter learned from a friend that a website called Project Truth contained allegations that her father had an association with a pedophile clan.

Mr. van Diepen accessed the Project Truth website. On it was an affidavit by Ron Leroux stating that Mr. Leroux had been at parties at the homes of Ken Seguin and Malcolm MacDonald, as well as at St. Andrew's Parish house, where he had seen a number of individuals, including Mr. van Diepen. Mr. Leroux said that he had witnessed sexual improprieties committed on minor boys at these locations by members of a pedophile clan that included named priests, Ken Seguin, and others. Mr. Leroux also asserted that at Mr. Seguin's funeral, Mr. van Diepen had disclosed that "he told Ken to watch his step for years" and that Mr. Seguin had left a "full report," "a confession" on his desk before his suicide. Mr. van Diepen was very upset to learn that his name was associated with a pedophile clan and that it was suggested he had been aware of Mr. Seguin's inappropriate behaviour but had chosen not to report it.

When Area Manager Claude Legault¹² returned to the Cornwall Probation Office on August 8, 2000, after a vacation, he became aware of the Project Truth website. Mr. Legault decided to alert Ms Deborah Newman to the existence of the website.

Ms Newman contacted Gary Commeford, Director of Management and Operational Support at the Ministry. She informed Mr. Commeford of the anonymous website, on which allegations were made about inappropriate activities engaged in by former and current employees of the Cornwall Probation Office. Ms Newman discussed the prospect of an "administrative review" of the information on the website. They agreed that Special Investigator Paul Downing, who reported to Mr. Commeford, would be the appropriate person to conduct the review.

Ms Newman stressed in her evidence that Mr. Downing was instructed to conduct an "administrative review," not an "investigation" of the alleged sexual abuse. He was to gather information to assist Ms Newman and other senior officials in their assessment of what actions, if any, the Ministry should take.

In early September 2000, Mr. Downing suggested to Ms Newman a more in-depth, formal, and structured approach to his review of the Project Truth website allegations. Ms Newman agreed that "a formal investigation is required in light of all of the information that has come to light in the past couple of weeks."

12. Claude Legault became the Area Manager of the Cornwall Probation Office in December 1998.

Ms Newman and Mr. Commeford testified that the overriding concern in the administrative review was that Paul Downing not interfere with the OPP investigation.

Paul Downing sent his report to Deborah Newman and Gary Commeford on October 10, 2000. Mr. Downing enclosed and summarized the interview reports of Jos van Diepen, Emile Robert, Bill Roy, and Father Kevin Maloney. He also provided a list of pertinent documents. In the report, Mr. Downing discussed Nelson Barque: Mr. Barque's statement to Inspector McMaster in 1982, in which he acknowledged that he had been sexually involved with two probationers; his resignation from the Ministry in May 1982 and subsequent employment at Équipe Psycho-sociale; and the reference for Mr. Barque provided by Cornwall Area Manager Peter Sirrs. He also discussed Mr. Barque's resignation from Équipe Psycho-sociale in 1986, after Pierre Landry confronted him with allegations of sexual misconduct. He discussed Mr. Barque's conviction in 1995 for indecent assault and his suicide in 1998, when he was being investigated by the OPP in Project Truth.

With respect to probation officer Ken Seguin, Mr. Downing concluded that "for some time prior to PPO Seguin's death in 1993, a number of Cornwall Probation and Parole staff suspected, while other staff ought reasonably to have known, that PPO Seguin was contravening Ministry rules and policies governing employee contact with offender/ex-offenders." The Ministry Special Investigator also stated in his October 2000 report that there was no investigation at the Ministry of Correctional Services regarding David Silmser's allegations of sexual misconduct by probation officer Ken Seguin "or other matters relevant to the supervision of Ministry clients at the Cornwall Probation and Parole Office."

Ms Newman had similar concerns about the Cornwall probation staff and management when she read Mr. Downing's report. Mr. Downing said that there appeared to be an office culture in Cornwall that tended to turn a "blind eye" to the breach of Ministry policies. For example, Mr. van Diepen appeared to know about Mr. Seguin's personal relationships with Ministry clients outside the office and Mr. Barque's pornographic material in his office. She was also troubled about Mr. Robert's judgment when she read the Downing report. Ms Newman learned that Regional Manager Roy Hawkins had allowed a former probationer, Gerald Renshaw, to live with Mr. Seguin. Additionally, she was concerned that an IIU investigation of David Silmser's complaint had not been undertaken. Ms Newman thought that follow-up interviews were necessary, particularly with regard to the absence of an investigation of the Silmser complaint by the IIU.

Mr. Downing was asked to conduct additional interviews. Mr. van Diepen had claimed in his interview with Mr. Downing that he had approached Mr.

Robert and had discussed Mr. Seguin's association outside the office with probationers. Mr. Downing was asked to contact Mr. Robert to determine whether, in fact, Mr. van Diepen had raised this issue with the Cornwall Area Manager. He was also asked to follow up on the letter of reference that Mr. Sirrs had provided for Nelson Barque in his application for a position at Équipe Psycho-sociale. Ms Newman thought there were gaps in information concerning the Silmser allegation of sexual assault by probation officer Ken Seguin, and she questioned whether the Ministry had appropriately handled this complaint. The absence of an IIU investigation was puzzling and of concern. Mr. Downing was asked to interview Loretta Eley.

In early 2001, Mr. Downing was informed that there were three new disclosures of sexual abuse of Ministry clients by Cornwall probation officer Ken Seguin. Mr. Downing asked Ministry Inspector Mark McGillis from the Correctional Investigation and Security Unit to interview and obtain statements from the complainants.

One of the complainants, identified at the Inquiry as C-48, alleged that Mr. Seguin had abused him in the 1970s when he was on probation at the age of fifteen or sixteen.

Inspector McGillis interviewed C-49, who also alleged that he had been sexually abused by his probation officer, Ken Seguin, from 1988 until the early 1990s. The former probationer said that he and Mr. Seguin had supplied drugs to one another. The third individual, also a former Ministry client, was not interviewed as he refused to proceed with the complaint.

In early September 2001, Mr. Downing was instructed to close the Cornwall file. Mr. Commeford explained that Denise Dwyer, a lawyer at the Ministry, would be dealing with the matter. At this time, both Mr. Downing and Mr. Commeford's involvement with the Cornwall file came to an end.

Mr. Commeford provided a number of reasons at the Inquiry hearings for the decision of the Ministry to close the Cornwall file. He explained that the two perpetrators, probation officers Mr. Seguin and Mr. Barque, were no longer alive. In addition, the perception at the Ministry was that the current Cornwall Area Manager, Mr. Claude Legault, had been dealing well with the situation and had established a number of protocols. In Mr. Commeford's opinion, "it did not appear" that "present clients were at risk." The Ministry was involved in a number of lawsuits at the time, of which government lawyers at the Legal Branch had carriage. Mr. Commeford and other senior officials at the Ministry "were all hoping" that Project Truth and the police forces would deal with this matter.

Mr. Zbar and Ms Newman echoed many of the same explanations. As Mr. Zbar said, his "primary concern" was that there was no current risk to Ministry

clients; when he was “assured” that “there was no danger currently,” he “felt somewhat relieved.”

No further investigations were conducted by the Ministry to identify the victims who had been sexually abused by Cornwall probation employees in the past. No efforts were made, for example, to conduct a historical review of the files of Mr. Seguin and Mr. Barque. As Deputy Minister Newman said, “quite frankly it wasn’t something we deliberately turned our minds to,” but she acknowledged, “[I]t’s a good point—if there was anyone who came forward through that process, that might have been an additional step that we could have taken, notwithstanding the practical difficulties of trying to source people out.” Former Deputy Minister Zbar also agreed that an effort to locate victims of abuse who might require psychological or other counselling services would have been beneficial.

It is clear from the evidence that the Ministry of Correctional Services failed to review the files of former Cornwall probation officers Nelson Barque and Ken Seguin in order to identify further victims of abuse.

Despite the problems raised in the Downing report regarding staff and managers of the Cornwall Probation Office, no disciplinary measures were taken by the Ministry of Correctional Services against any individuals. Mr. Downing had raised serious concerns regarding Peter Sirrs, Emile Robert, and Jos van Diepen, yet no disciplinary action was taken by Ministry officials. Nor were disciplinary measures initiated against those involved in the Silmser complaint.

Senior Ministry officials knew that Mr. Sirrs had provided a letter of reference for Mr. Barque to the executive director of Équipe Psycho-sociale. Mr. Barque had admitted that he had engaged in sexual improprieties with Ministry clients, yet the Cornwall Area Manager did not caution the executive director against hiring Mr. Barque for a position. In Ms Newman’s notes of a meeting she had on November 14, 2000, with Mr. Zbar, Mr. Commeford, lawyer Denise Dwyer, and Mr. Rabeau, she wrote: “Peter Sirrs—pos. ref.—issue of liability.” Mr. Barque was in a position of trust, he had violated Ministry rules, and Mr. Sirrs had exercised very poor judgment. But at the hearings, Ms Newman said no action could be taken against Mr. Sirrs after the Downing report because he had retired from the Ministry of Correctional Services.

Area Manager Emile Robert knew or at least had a reasonable suspicion that Ken Seguin was socializing with clients outside the office, contrary to Ministry policy. Moreover, Mr. Robert had waited eight months to report the Varley incident to his supervisor at the regional office. Furthermore, the decision of Mr. Robert and Mr. Hawkins to allow former probationer Gerald Renshaw to live with the Cornwall probation officer was problematic and an area of concern to Assistant Deputy Minister Newman. In her notes, Ms Newman refers to the lengthy gap, Mr. Robert’s “wilful blindness,” the granting of permission

to Ken Seguin to live with a former probationer, and the issue that there was “no level of inquiry until police involved.” With regard to the failure to discipline Roy Hawkins, Ms Newman explained that he, too, had retired from his employment at the Ministry.

Senior Ministry officials knew that there were clear contradictions between the statement Mr. van Diepen gave to the OPP and the information he conveyed to Mr. Downing concerning his knowledge of Mr. Seguin’s inappropriate interactions with Ministry clients. Mr. Downing told his superiors that he thought Mr. van Diepen knew more about Ken Seguin’s relations with probationers than he was willing to disclose to the Ministry Special Investigator. Recorded in Ms Newman’s notes of November 14, 2000, is: “Jos—contradicted himself → close friend?—trying to distance himself.” Section 22 of the *Ministry of Correctional Services Act* states that an employee can be dismissed if he or she does not furnish information for the purposes of an investigation or an inspection.

The question that arises is why no disciplinary measures were imposed on Mr. Robert or Mr. van Diepen, employees of the Ministry of Correctional Services at the time Mr. Downing’s report was completed in October 2000. Ms Newman stated in her evidence that Mr. Robert was working at the Ottawa Probation and Parole Office at the time of the release of the report, under the strict supervision of Mr. Gilbert Tayles, the equivalent of a regional manager.

Ms Newman and Mr. Zbar stated that these issues had been referred to the Legal Branch of the Ministry and that as a result of the legal advice received, it was decided that no disciplinary action would be taken against Mr. Robert and Mr. van Diepen.

In my view, a central reason why senior officials at the Ministry did not invoke disciplinary measures was that they were concerned that the employees would grieve. In Ms Newman’s notes of the November 14, 2000, meeting with Mr. Zbar, Mr. Commeford, Ms Dwyer, and Mr. Rabeau, she writes: “if E. & J. grieve, this cld all be made public thru griev. process.” Ms Newman confirmed that “E” and “J” refer to Emile Robert and Jos van Diepen.

The Ministry was clearly worried about the publicity that could result from these grievances and, in particular, the problems at the Cornwall office regarding sexual abuse by employees. This explains why employees such as Mr. Robert and Mr. van Diepen were not disciplined. In my view, individuals who failed to comply with Ministry statutes, policies, and rules should have been disciplined.

Mr. Zbar and other witnesses testified that at that time, the Ministry had “serious labour relations challenges.” It “had the unenvious record of leading the government in grievances,” and he and other Correctional Services officials were “trying to find a way of addressing those things.” The former Deputy Minister recalled discussing with Ms Newman the possibility of negative publicity

about Mr. Robert and Mr. van Diepen if grievances were initiated as a result of disciplinary measures. But he and Ms Newman claimed that publicity associated with grievances brought by the employees was not a consideration in the decision not to impose disciplinary action against these individuals. I do not find this convincing. In my opinion, the failure of the Ministry and its officials to impose disciplinary measures on the Area Manager and staff in the Cornwall Probation and Parole Office is attributable, in large part, to their concern about the grievances that would be initiated, as well as their concern regarding negative publicity that could ensue regarding the acts of Ministry employees.

Ministry officials were very concerned about the information that emerged from the Downing investigation and report. Two probation officers in Cornwall had committed, or were alleged to have committed, sexual acts on probationers; it appeared that staff and successive area managers knew that socializing was occurring outside the office, contrary to Ministry policy; and staff and area managers at the Cornwall office had exercised very poor judgment with regard to reporting improper conduct to their superiors. In my view, the Ministry of Correctional Services ought to have imposed disciplinary measures on Emile Robert with respect to his deficient management practices in relation to the conduct of Mr. Seguin, and on Mr. van Diepen for failing to report his knowledge of Mr. Seguin's inappropriate conduct with Ministry clients.

Increasing Number of Sexual Abuse Disclosures Confront the Cornwall Probation Office

It was in the late 1990s that disclosures of sexual abuse began to steadily stream into the Cornwall Probation Office. As mentioned, there had been two disclosures in 1982 of sexual and other inappropriate conduct with probationers by probation officer Nelson Barque. But it was not until 1997 that disclosures of sexual improprieties committed by probation staff began to be regularly received.

The first eighteen disclosures took place before 2004, when this Public Inquiry was established by the Ontario government. Ms Lariviere testified that there were thirty-six claims of abuse from 1982 to 2007.¹³ All of these allegations involved abuse committed in the years 1968 to 1993.

Claude Legault became the Area Manager of the Cornwall Probation Office in December 1998. It was apparent to Cornwall probation staff that Mr. Legault had a very different orientation from his predecessor, Emile Robert.

What became readily apparent to Mr. Legault and his staff was that they knew very little about sexual abuse, they had no training on disclosures, and no Ministry protocol existed to advise staff of the appropriate procedures to be followed.

13. Thirty-three of the disclosures were received by the Cornwall Probation Office.

Claude Legault and his staff developed a “Protocol for the disclosure of male offenders of abuse in relation to former Probation Officers and Project Truth related cases.”

Ms Newman was responsible for the Cornwall Probation Office from 1996 to 1998 in her position as District Administrator at the Ministry of Correctional Services and from November 1999 until 2000 as Regional Director of the Eastern Region. In September 2000, Ms Newman became the Assistant Deputy Minister for Community and Young Offender Services. Deborah Newman had worked in the same office as Bill Roy in 1993 and consequently was aware of David Silmser’s allegations of sexual abuse by Cornwall probation officer Ken Seguin. She viewed it at that time as “an isolated historical event.” When Ms Newman became the District Administrator of the Cornwall Probation Office in 1996, “it didn’t come back to [her] mind that there had been an issue with sexual abuse in the past.” She thought that incoming regional managers of the Cornwall Probation Office should have been apprised of the past events and problems, including those involving Nelson Barque and Ken Seguin. Had she had this information, Ms Newman would have had the opportunity to examine these issues regarding sexual and other inappropriate conduct of probation officers with probationers under their supervision and could have initiated measures to address the situation.

Ms Newman thought the Ministry’s information system did not ensure that officials assuming new positions became aware of the history and problems of the probation and parole offices that became their responsibility. I agree with her assessment.

Despite the fact that Ms Newman was responsible for the Cornwall office from 1996 to 1998 it was only in late 1999, when she returned from a secondment with the federal government, that she learned of the issues concerning Nelson Barque’s inappropriate sexual behaviour in the 1980s, his plea of guilty in 1995 for indecent assault of Albert Roy, the 1998 criminal charges, and Mr. Barque’s suicide.

It is my recommendation that training on sexual abuse, particularly male sexual victimization, should be mandatory for all probation officers in the province. In addition, a protocol should be developed by the Ministry of Community Safety and Correctional Services for probation officers throughout Ontario on disclosure of abuse by Ministry clients.

No historical review of files in the Cornwall Probation Office was undertaken for the purpose of assessing whether there were other Ministry clients who had been sexually abused by probation staff. No notices were placed in local or regional newspapers by the Ministry to ask those who had been probation clients in particular years to contact the Cornwall Probation Office. Nor were letters sent to such individuals to ask them whether Mr. Barque or Mr. Seguin had supervised them during their probation. No efforts were made to notify

these former probationers, according to the evidence of probation officers at the Cornwall office.

Efforts should have been made to identify as many victims of probation officers Nelson Barque and Ken Seguin as possible with the existing files in the Cornwall Probation Office. At the very least, a review should have been undertaken of the files from 1993. Also, the Ministry could have placed notices in the local Cornwall and regional newspapers and other media asking former probationers from the particular period to contact the probation office. This would have helped to ensure that some of the former probation clients who has been abused by their probation officers, persons in positions of trust and authority, received the necessary support and counselling to help them deal with the trauma they had endured in their youth and continued to endure in their adulthood.

When she gave her evidence at the Inquiry, Deputy Minister Newman expressed “deep regret” on the part of the Ministry of Community Safety and Correctional Services for the harm suffered by clients abused by Ministry employees. She stated that Ministry officials understood that people in the Cornwall community had lost trust and faith in government institutions such as the Ministry. The Deputy Minister referred to the two former probation and parole officers who had been involved in events that led to the establishment of the Inquiry. On behalf of the Ministry, Ms Newman undertook to continue to provide support for those individuals who disclosed these incidents.

Deputy Minister Newman stated that the Ministry of Community Safety and Correctional Services is “not the same institution that we were.” However, she acknowledged that further improvements could be made, which she delineated. They included information sharing between the Ministry and its Justice partners, the Crown and the police; improvements with respect to file reviews by employees at the Ministry; recognition of the importance of giving clear and comprehensive direction to all employees regarding conflict of interest; and information management to ensure that information on critical incidents is collected systematically by the Ministry of Community Safety and Correctional Services. Deputy Minister Newman said:

... I would like to talk about the Ministry’s deep regret.

So we’re aware that the faith and the trust of the members of the Cornwall community has been compromised and part of the mandate of this Inquiry is to lead the community healing and reconciliation process.

I want to assure you that the Ministry shares this goal and that we are striving to regain the community’s trust.

So we acknowledge, certainly, that two former probation and parole officers were involved in the events giving rise to this Inquiry.

We've been working diligently, as I've described, to deal with disclosures of sexual abuse that come to our attention and to strongly support victims coming forward.

The Ministry deeply regrets any harm that our clients may have suffered, and we will continue with individuals coming forward and disclosing incidents to support them in the most compassionate way possible.

I have noted that the Ministry has evolved greatly since these historical events transpired.

We're not the same institution that we were when these events occurred but we certainly acknowledge that further improvements can be made.

Institutional Response of the Cornwall Community Police Service

The Cornwall Community Police Service (CCPS), one of the oldest police forces in the country, was established in 1789 as the Cornwall Police Force.

The duties of a police officer, as set out in the *Police Services Act*,¹⁴ include preserving the peace, preventing crimes, assisting victims of crime, executing warrants, laying criminal charges, and participating in criminal prosecutions. The *Act* also states that police officers must perform duties assigned by the chief of police, and they must complete the prescribed training.

There is a chain of command in the Cornwall Police Service (CPS),¹⁵ which requires officers lower in rank to report to and follow the orders of their superiors. The chain of command from lowest to highest rank is as follows:

Constables: serve as front-line police officers

Sergeants: supervise constables

Staff sergeants: have responsibility for a bureau or unit and fulfil an administrative role

Inspectors: supervise sergeants and staff sergeants.

The Deputy Chief of Police reports to the Chief of Police and is responsible for the operational and administrative aspects of the police force. The Deputy Chief

14. R.S.O. 1990, c. 15, s. 42(1).

15. The service will be referred to as the Cornwall Police Service (CPS).

assists the Chief in implementing provisions in the *Police Services Act* and is responsible for creating, revising, and reviewing policies and procedures. He or she also assists the Chief of Police with employment matters, pay equity issues, and other administrative matters.

The Chief of Police is responsible for administering the police force and overseeing its operation in accordance with the objectives, priorities, and policies established by the Police Services Board, and for ensuring that members of the police force carry out their duties in accordance with the *Police Services Act* and the Regulations. The Chief of Police is also responsible for maintaining discipline in the police force, ensuring that the police force provides community-oriented police services, and administering the complaints system.

The Cornwall Police Service is headed by a Board of Commissioners, a civilian body that oversees police functions. The *Police Services Act* states that municipal police services boards are “responsible for the provision of adequate and effective police services in the municipality.”¹⁶ This responsibility includes duties such as determining objectives and priorities with respect to police services; establishing policies for the effective management of the police force; appointing, directing, and monitoring the Chief of Police; and administering the budget for the police force. The Board appoints the Chief and Deputy Chief of Police.

The Youth Bureau,¹⁷ a sub-unit of the Criminal Investigation Bureau, was established in 1984. It began as a division that investigated offences under the *Young Offenders Act*.¹⁸ It governed the criminal prosecution of youths between the ages of twelve and eighteen. The Youth Bureau began to investigate incidents involving child victims, such as child abuse, and in the mid-1990s the investigation of all sexual offences¹⁹ became the responsibility of the Youth Bureau. In 2000, the Youth Bureau became the Sexual Assault and Child Abuse Unit (SACA).

The response of the CPS to allegations of historical sexual abuse of children and young persons in the Cornwall area is examined in this section. I make recommendations on such issues as the training of officers for sexual abuse investigations, and in particular historical child sexual abuse cases, victim support and accommodation, note taking, interviewing, and the supervision of officers conducting these investigations. The importance of sharing information on such cases among officers in the CPS and other police forces such as the Ontario

16. S. 31(1).

17. It was previously known as the Juvenile Branch.

18. R.S.C. 1985, c. Y-1.

19. While sexual assault investigations were generally done by the Youth Bureau, some may have been conducted by the “E” Unit.

Provincial Police (OPP), as well as with institutions such as the Children's Aid Society, is also discussed.

Allegations of Sexual Assault Made by Probationers of Nelson Barque

Nelson Barque was a probation and parole officer in Cornwall from 1974 to 1982. He was the probation officer for Robert Sheets, C-44, Albert Roy, and C-45, all of whom alleged that Mr. Barque sexually abused them.

Mr. Barque was C-44's probation officer from 1980 to 1982. In a statement he provided in 1982 to Inspector Clair McMaster of the Ministry of Correctional Services, C-44 claimed that Mr. Barque had given him alcohol in breach of the conditions of his probation and was sexually involved with him from 1981 to 1982. C-44 was approximately twenty years old at this time. He claimed that Mr. Barque had engaged in sexual acts with him on several occasions both at the Cornwall Probation and Parole Office and at the probation officer's home.

In a statement to Detective Constable Don Genier of the OPP in June 1998, Robert Sheets claimed that he met Mr. Barque through C-44 when Mr. Sheets was about eighteen years old. At this time, in the late 1970s, Mr. Ken Seguin was Mr. Sheets' probation officer. Mr. Barque subsequently became Mr. Sheets' probation officer in January 1982. Mr. Sheets stated that Mr. Barque gave him money and alcohol and that he did work for the probation officer at Mr. Barque's home. A sexual relationship ensued. Robert Sheets alleged that the sexual activity occurred about once a week until Mr. Barque resigned in May 1982. Mr. Sheets also stated that most of the sexual activity took place at Mr. Barque's home in St. Andrews and that on a couple of occasions it occurred at the home of Ken Seguin, who was not present at the time.

Mr. Barque met with Staff Sergeant Maurice Allaire of the CPS and Justice of the Peace Keith Jodoin. Mr. Jodoin had cautioned Mr. Barque on his supervision of Robert Sheets and told him that he must take action with regard to Mr. Sheets' unacceptable behaviour. Mr. Barque discouraged further police action and indicated he would report back to Staff Sergeant Allaire. However, the officer did not hear from Mr. Barque on this subject.

Mr. Sirrs spoke to Cornwall Police Sergeants Masson and Laroche on April 9, 1982, who advised him that they had previously received a complaint from Gerald Levert, superintendent of the building in which the Cornwall Probation Office was located. As mentioned, the superintendent reported unusual activity involving Mr. Barque and young males at the office at night, which had been observed by janitorial staff. The police officers allowed Mr. Sirrs to read some CPS occurrence reports in which a probationer alleged that Mr. Barque and Mr. Sheets had a sexual relationship. Sergeant Masson indicated to Mr. Sirrs that he thought Mr. Barque was too frequently in the company of Robert Sheets.

The CPS officer acknowledged that he had been aware of rumours about a sexual relationship between Mr. Barque and Mr. Sheets for some time, but stated that he did not have sufficient information to lay criminal charges, particularly since the individual who had provided the information about the sexual relationship would not act as a witness. Sergeant Masson reported that Mr. Barque had intervened with the police on several occasions to ensure that no action was taken against his probationers. There was an incident with Robert Sheets during which Mr. Barque was cautioned that he would be charged with obstruction if he did not stop interfering with the Cornwall police. Sergeant Masson indicated to Mr. Sirrs that he had informally counselled Mr. Barque with regard to the rumours and the probation officer's close association with probationers, including Robert Sheets. Mr. Barque, he said, had acknowledged that he needed to do something about this situation.

In my view, the Cornwall Police Service did not conduct a proper investigation into Nelson Barque's sexual involvement with probationers in 1982. Mr. Barque had admitted his sexual involvement with C-44 and Robert Sheets to officials at the Ministry of Correctional Services. Had CPS officers undertaken a thorough investigation of the matter, not only would they have obtained further details regarding Mr. Barque's sexual involvement with Robert Sheets and C-44 but they might have also discovered other sexual and other inappropriate conduct of the probationer officer with additional probationers such as Albert Roy and C-45. Had criminal charges been laid against Mr. Barque at that time, the former probation officer would probably not have been able to later obtain positions working with children.

In my view, the Cornwall Police Service failed to properly investigate the allegations made in 1982. Mr. Barque continued to interact with children and other young people at schools and at a mental health organization despite his admission that he had had sexual relations with probationers under his supervision.

Approximately twelve years later, in November 1994, Mr. Barque was once again brought to the attention of the CPS. Albert Roy, a former probationer of both Mr. Barque and Mr. Ken Seguin, alleged that he had been sexually abused by these probation officers while on probation in Cornwall in the mid-1970s.

On November 24, 1994, Albert Roy was interviewed by Constable Heidi Sebalj of the CPS. The day after the interview, Constable Sebalj and Albert Roy went out together to try to locate Mr. Barque's home. Information from the Ontario Ministry of Transportation indicated that it was located in St. Andrews, which was within the jurisdiction of the OPP. Because Albert Roy was unable to identify the home, the Cornwall Police Service and the OPP decided to investigate the allegations jointly.

Mr. Roy told Constable Sebalj that he was afraid to be in a room alone with a man. Nevertheless, several of the police officers involved in his case were men. Mr. Roy testified that he was never asked by these police officers whether he would prefer to deal with a female officer. It is important that the police services develop a protocol to ensure that victims of childhood sexual abuse make their disclosures to and are interviewed by officers of the gender with which they feel most comfortable.

On December 14, 1994, OPP Detective Constable William Zebruck informed Constable Sebalj that he had arrested and charged Nelson Barque regarding the sexual acts allegedly perpetrated on Albert Roy. This ended the involvement of the Cornwall Police Service in this investigation.

A year later, in February 1997, another victim, C-45, provided Cornwall Police Constable René Desrosiers with a statement alleging that Nelson Barque and Ken Seguin had abused him when he was a probationer under supervision at the Cornwall Probation Office.

The Ontario Municipal and Provincial Police Automation Cooperative (OMPPAC), became available to the Cornwall Police Service in July 1989. OMPPAC is an automated data entry and records management system designed to permit the electronic recording of information. Prior to 1989, the CPS relied on written reports for information on incidents reported and investigations conducted by the police service. Information was recorded on contact cards that contained contact information on the complainants, witnesses, suspects, and individuals charged with offences.

After OMPPAC was introduced, officers at the CPS were required to insert information such as incident reports and their respective investigations into the electronic system. The system permitted different searches to be conducted, such as the name of the perpetrator or victim or the incident number. Once the data was entered, CPS officers and officers in other police services that were members of OMPPAC could view the information. This enabled information to be shared within and between police forces. OMPPAC also had the capability of creating a “project file,” which was accessible only to designated officers.

It was important that Cornwall police officers promptly record on OMPPAC information about their files. Moreover, it was essential that officers who subsequently became responsible for such files check OMPPAC to obtain information on the history of a case such as the alleged victims, potential witnesses, persons interviewed, and other important information on the sexual abuse investigation.

Constable Desrosiers testified that he was not aware that Constable Sebalj had been involved in a previous investigation of Mr. Barque regarding allegations of abuse by probationer Albert Roy that resulted in plea of guilty by Mr.

Barque to indecent assault on a male. Members of the CPS in this and other cases did not know the history of the involvement of other Cornwall officers with the alleged perpetrators of sexual abuse. It is critical that officers record and insert their notes of investigations into OMPPAC or other electronic databases to ensure that other police officers have access to this information.

The Cornwall Police Service should have followed up on the complaint of C-45 with regard to his allegations against Nelson Barque. Officers at the CPS should also have performed a database search for the name of the perpetrator to determine if Mr. Barque had been the subject of other, earlier ongoing investigations. The Cornwall Police Service did not conduct a thorough investigation of Mr. Barque regarding the allegations of sexual abuse perpetrated by this probation officer.

Investigation of Earl Landry Jr.

The CPS first became aware in June 1985 of allegations of sexual abuse of young boys by Earl Landry Jr.

On June 24, 1985, Inspector Richard Trew received information that Earl Landry Jr., the son of the former police chief in Cornwall, had sexually assaulted a boy of about eight years old at King George Park. Earl Landry Sr. had retired as Chief of Police from the Cornwall Police Service in April 1984.

Chief Shaver wanted to ensure that experienced and highly qualified police officers were assigned to the investigation and decided that Staff Sergeant Stanley Willis and Sergeant Ron Lefebvre should be responsible. Staff Sergeant Willis had a personal relationship with Earl Landry Jr.'s brother Brian. Chief Shaver testified that although he did not know about this friendship at the time, it did not surprise him as the men were about the same age and Cornwall is a small community. Chief Shaver did not consider it a possible conflict of interest, actual or perceived, for the Cornwall Police Service to investigate this case of child sexual assault by a former CPS police chief's son. The investigating officers assigned to the case had both served under Chief Earl Landry Sr. Despite this, Chief Shaver stated that he "would never even consider going outside" to an external police force for this investigation.

Staff Sergeant Garry Derochie, who conducted an internal review of the investigation in 1999, testified that in hindsight, it would have been advisable for another police force to conduct the 1985 investigation. I agree. It was important, to avoid either an actual or perceived conflict of interest, that Chief Shaver request that an external police force investigate the allegations of abuse of children against the former police chief's son.

On June 26, 1985, Chief Shaver decided to drive to the home of Earl Landry Sr., the former Cornwall police chief. When he left the police station, Earl

Landry Jr. was being questioned. Chief Shaver told Earl Landry Sr. that his son was being questioned at the police station for the alleged sexual molestation of a child. He told Earl Landry Sr. the names of the investigating officers on his son's case.

When Claude Shaver gave his evidence at the Inquiry, he understood that it was inappropriate for him to visit Earl Landry Sr. to discuss his son's detainment and questioning at the police station. He said that in retrospect, he "probably should not have gone to see the father" and was aware that it could be perceived as a conflict of interest. In my view, it was clearly inappropriate.

Sergeant Lefebvre asked Earl Landry Jr. whether he would be willing to take a polygraph test. Earl Landry Jr. agreed.

The morning following the visit from Chief Shaver, Earl Landry Sr. decided to contact Staff Sergeant Willis. Active investigation on this complaint of child sexual abuse ended the morning of June 27, 1985, immediately after the call from Earl Landry Sr. Despite the comment from Earl Landry Sr. that "perhaps arrangements can be made later on" for a polygraph test for his son, there is no indication that the CPS investigating officer followed up on this. Had Chief Shaver not spoken to Earl Landry Sr., it is possible that Earl Landry Jr. would not have consulted his father and would have taken the polygraph test. The CPS investigating officers did not try to find other possible victims of Earl Landry Jr., such as children seen at the park with this alleged perpetrator. Nor were attempts made by CPS to conduct a joint investigation with the Children's Aid Society (CAS) on this case. It is noteworthy that at this time the CAS and CPS were involved in joint investigations of other alleged perpetrators of abuse.

On June 27, 1985, Sergeant Lefebvre presented the results of his investigation to his supervisor, Staff Sergeant Willis. The child complainant, although the age of a grade 5 student, was in a lower grade. Sergeant Lefebvre stated in a CPS interview several years later that he did not have sufficient evidence to proceed with a charge against Earl Landry Jr. He was concerned about the mental capacity of the child and that there was no corroborative evidence. No criminal charges were laid at this time against the former police chief's son for the alleged sexual acts with this young boy.

In my view, the Cornwall Police Service did not conduct a thorough investigation in 1985 into the allegations of child sexual abuse made against Earl Landry Jr. It is also clear that the CPS failed to properly supervise the officers involved in the investigation.

Another important problem was the lack of contact with the CAS by the CPS investigating officers. When Staff Sergeant Derochie reviewed the Earl Landry Jr. case several years later, he was unable to find an explanation for the failure to conduct a joint investigation with the CAS. As he acknowledged, it is possible that if the CAS and CPS had jointly investigated the Earl Landry Jr. case in 1985,

other victims would have been identified. Instead, after a two-day investigation, the CPS decided not to pursue the matter. It was not until 1999, thirteen years later, that Earl Landry Jr. pleaded guilty to molesting five victims. One was the boy in the 1985 case investigated by Sergeant Lefebvre.

In fact, the CAS had relevant medical information regarding this case in 1985. As Staff Sergeant Derochie said, if the CPS had been aware of this medical letter, there would have been some evidence to corroborate the child victim's statement.

Staff Sergeant Derochie found that record keeping was inadequate in several child sexual assault cases. In his opinion, this appeared to be a systemic problem. I agree. The use of loose-leaf notebooks, the destruction of notes, poor note keeping, and inadequate supervision are deficiencies that are prevalent in these and other investigations of historical sexual abuse conducted by the CPS.

There was no discipline imposed, formally or informally, on any officers in relation to the Landry Jr. investigation. Sergeant Lefebvre was not disciplined or counselled for his inadequate investigation in 1985 of the allegations of sexual abuse by Earl Landry Jr. Nor were disciplinary measures imposed on the officers who supervised the Landry Jr. investigation. Moreover, Chief Shaver was not subject to any measures for his disclosure of information to Earl Landry Sr. during the ongoing CPS investigation of Earl Landry Jr.

In 1993, further allegations of sexual abuse by Earl Landry Jr. were reported to the CPS. On October 22, 1993, CAS worker Pina DeBellis contacted Staff Sergeant Luc Brunet, the head of the Cornwall Police Criminal Investigation Bureau (CIB). Staff Sergeant Brunet was also the liaison person with the CAS. He was told about the disclosure by a male, who was about nine years old at the time of the alleged sexual abuse, which had occurred repeatedly for approximately a year. The unnamed male had made it clear that he did not wish to pursue this matter with either the police or the CAS. Earl Landry Jr. and his wife were foster parents, and the CAS was concerned.

On January 9, 1996, Carole Leblanc called the CPS about Earl Landry Jr. and spoke to Staff Sergeant Brunet, the CAS liaison officer. Ms Leblanc reported that a male, C-52, had disclosed to an addiction counsellor on November 29, 1995, that he had been sexually molested when he was a child by an employee of the City's Parks and Recreation Department. The victim was referred to the CAS, which identified the suspect as Earl Landry Jr.

Staff Sergeant Brunet decided to assign the file to Constable Scott Hanton. Staff Sergeant Brunet gave no thought to the prospect of asking another police force to investigate the matter. Constable Hanton had no experience investigating historical sexual assault cases and was not part of the CIB. The CPS and Staff

Sergeant Brunet should have taken measures to ensure that the officer assigned to the Landry Jr. case had training in investigating such cases.

As Staff Sergeant Derochie made clear in his report, “The case was bounced around from investigator to investigator for more than a year.” Staff Sergeant Derochie stated that it took far too much time to initiate the investigation after the 1996 complaint was made to the CPS. There was a backlog of cases at the police service, too many different officers had responsibility for the file, and the case did not progress in a timely manner. I agree.

Sergeant Brian Snyder became responsible for the Landry Jr. investigation on September 30, 1996. Sergeant Snyder knew that the file had bounced from one officer to the next and that little attention had been paid by the CPS to these allegations of historical sexual assault. Yet this complaint against Earl Landry Jr. by C-52 was again not investigated promptly. Sergeant Snyder’s supervisors at the CPS should also have ensured that this case was investigated without delay.

It is clear in correspondence from Crown Attorneys Lynn Robinson and Murray MacDonald in 1997 and 1998 that the Crown had become exasperated with the inattention of Sergeant Snyder to the Landry file. It is my view that Sergeant Snyder failed to conduct the investigation of Landry Jr. in a timely manner.

Staff Sergeant Derochie identified in his 1999 review several problems in the Earl Landry investigation that were also present in other historical sexual assault investigations at the Cornwall Police Service. Historical sexual assault cases, he concluded, were not considered high priority at the CPS. As Staff Sergeant Derochie testified, the Landry Jr. investigation, the investigation of the Jeannette Antoine complaint, and the investigation of the Silmser complaint all suffered from the same deficiencies: case management problems, poor record keeping, and delay.

A few months before testifying at the Inquiry, Staff Sergeant Snyder²⁰ went to the home of C-52, one of the complainants, to discuss the Landry Jr. investigation. He was dressed in uniform. During this visit, he asked about the incident in which C-52 came to the police station to complain there had been little progress on the investigation.

Staff Sergeant Snyder claimed that it did not occur to him at the time that this visit was inappropriate or could be intimidating to C-52, a victim of child sexual assault. In hindsight, he acknowledged that it was a mistake to visit C-52’s home, particularly in uniform, in preparation for his testimony at the Inquiry, which was examining the response of the Cornwall Police Service to allegations of sexual assault by victims in the community.

20. Brian Snyder was promoted to Staff Sergeant in November 2006.

Staff Sergeant Snyder made notes of his visit to C-52's home in March 2008 but did not disclose them to the Inquiry until two weeks before he testified at the hearings. It is evident that Staff Sergeant Snyder was reluctant to disclose his notes of his visit and exchange with C-52. It is my opinion that it was clearly inappropriate for the officer to visit the home of this victim of childhood sexual abuse to discuss the Landry Jr. investigation prior to testifying at the Inquiry.

In summer 2000, the Cornwall Police Services Board was named defendant in a civil action instituted by C-53's family. C-53, one of the victims of Earl Landry Jr., and members of his family instituted a legal action against the CPS as well as Earl Landry Jr., Earl Landry Sr., the City of Cornwall, and the Children's Aid Society. It was alleged in the statement of claim that the former police chief, Earl Landry Sr., had abused his influence in the CPS to protect his son from being criminally charged with sexual assault.

On August 16, 2000, Chief Repa wrote a memo to Staff Sergeant Derochie, head of the Professional Standards Division. He directed Staff Sergeant Derochie to begin a criminal investigation immediately of Earl Landry Sr. and other involved members of the CPS "to ascertain the facts." Chief Repa was concerned about the allegation of attempts to obstruct justice by the CPS.

Chief Repa did not consider asking an external police force to conduct this investigation. It would have been appropriate to refer this investigation to another police force to ensure objectivity. It was also important as members of the community in Cornwall could otherwise conclude that the CPS was attempting to cover up improper influence by the former police chief.

On September 15, 2000, Sergeant Snyder became involved in the investigation of the allegations of conspiracy and attempt to obstruct justice. After completing interviews over several months, Sergeant Snyder concluded that there was no evidence to suggest that there was a conspiracy to prevent Earl Landry Jr. from being charged with sexual assault.

It is important to note that neither Sergeant Snyder nor Staff Sergeant Derochie interviewed Earl Landry Sr. in their 2000–2001 criminal investigation. After receiving their conclusion that Staff Sergeant Willis and Sergeant Lefebvre had not engaged in inappropriate conduct during the 1985 criminal investigation of Earl Landry Jr., Chief Repa decided that it was not necessary to interview the former police chief. In my opinion, the Cornwall Police Service ought to have interviewed Earl Landry Sr.

In my view, the Cornwall Police Services Board failed to establish policies and failed to give direction to the Chief of Police to ensure that conflicts of interest were identified and appropriately managed within the context of investigations related to allegations of historical sexual abuse. In addition, Chief Repa and the

Cornwall Police Service failed to take measures to ensure that conflicts of interest were identified and dealt with appropriately in the context of the investigation of allegations of historical sexual abuse by Earl Landry Jr. Furthermore, the Cornwall Police Service unreasonably delayed the investigation into allegations of sexual abuse made against Earl Landry Jr. It also failed to ensure that investigators had the appropriate training for cases of historical child sexual abuse.

Investigation of Jean Luc Leblanc

On January 24, 1986, Staff Sergeant Stanley Willis asked Constable Brian Payment to investigate allegations of sexual abuse involving Jean Luc Leblanc. At that time, Mr. Leblanc worked as an instructor at the training institute at Transport Canada. Staff Sergeant Willis explained that the CAS had received a complaint and that the alleged child victim, Scott Burgess, was a student at a local Cornwall school.

At Central Public School, Constable Payment spoke to Bruce Duncan of the CAS about the case. He was told that the alleged victim had disclosed to a teacher, Dawn Raymond, about two weeks earlier that he had been sexually molested by Mr. Leblanc.

Constable Payment had asked Mr. Duncan when he had his initial contact with Scott Burgess not to ask the child details about the alleged sexual assault. No protocol existed between the Children's Aid Society and the Cornwall Police Service at that time, and Constable Payment was worried that leading questions would be asked. As he explained in his testimony, a police officer and a CAS worker have very different objectives. CAS officials are focused on the protection of the child rather than on the success of a criminal prosecution. Yet despite the police officer's request, Bruce Duncan spoke to Scott Burgess about some of the details of the sexual assaults by Mr. Leblanc.

At the CAS office, Constable Payment interviewed Scott Burgess, who was in grade 7 at the time. He took a statement from him. Mr. Duncan was present. This was the third time that day that Scott was interviewed about the abuse. The child described acts of fellatio committed multiple times by Mr. Leblanc.

Dawn Raymond, the woman to whom Scott Burgess had disclosed sexual activities with Mr. Leblanc, wrote a statement for the police at the CAS office at the time Constable Payment interviewed Scott. Ms Raymond was a teacher at Gladstone Public School and had taught Scott Burgess and Jason Tyo. The boys had begun to visit her at her home the previous summer and she "became more of a friend," a person in whom the children would confide. Jason Tyo came to her school and disclosed to Dawn Raymond that Mr. Leblanc had performed fellatio on and had anal sex with Scott Burgess. A few days later, Scott confirmed that he

had been sexually molested by Mr. Leblanc. He also revealed that Mr. Leblanc had performed fellatio on Jason Tyo.

Constable Payment reviewed Dawn Raymond's statement after his interview with Scott Burgess and asked her to sign it. Her statement clearly said that one of the child victims had told her that fellatio and anal sex had been perpetrated on Scott Burgess by Mr. Leblanc. Yet Constable Payment did not include the allegations of anal sex in the will-state of Scott Burgess. Constable Payment agreed that this was important information as it affected the criminal charges that could be laid against Mr. Leblanc. Also omitted in the will-state was information about the trips that the child went on with Mr. Leblanc.

Constable Payment arrived at the Burgess home on the evening of January 24, 1986. He spoke with Jody Burgess in his bedroom. The boy described some acts of the sexual molestation. Constable Payment did not interview any of the other children in the Burgess home to determine whether they, too, had been subjected to sexual abuse by Jean Luc Leblanc. Fifteen-year-old Cindy Burgess, Scott and Jody's sister, was in the kitchen at the time the CPS Constable spoke to Mr. and Mrs. Burgess and knew the reason for the visit.

Constable Payment agreed that in retrospect, it would have been a good idea to speak to the other Burgess children to determine whether they, too, had been sexually assaulted by Mr. Leblanc. Constable Payment learned several years later that Cindy Burgess was also sexually abused by this man.

As a result of the OPP investigation of Jean Luc Leblanc in 1999, Cindy Burgess was interviewed, as were her siblings Scott and Jody. Mr. Leblanc was subsequently prosecuted for a number of sexual acts committed on children and received a ten-year custodial sentence in 2002.

On January 27, 1986, charges of gross indecency were laid against Mr. Leblanc with respect to the acts of fellatio committed on Scott Burgess, his brother Jody, and Jason Tyo. The allegations spanned from 1981 to 1985. At that time, Constable Payment clearly understood the difference in the gravity of the offence between an act of fellatio and an act of anal intercourse, but no charges were laid with respect to the acts of anal intercourse. Constable Payment conceded that had the statements of the complainants contained references to the anal sex, "there would have been other charges."

Constable Payment arrested Jean Luc Leblanc on January 27, 1986. Mr. Leblanc's release did not contain a condition prohibiting him from communicating with the victims or other children and young persons. Constable Payment could not explain why he did not include this but agreed that the release "definitely" should have included this condition. This omission was critical in terms of failing to protect young persons from this perpetrator. Mr. Leblanc continued to have contact with children.

No policy existed that officers promptly contact sexual assault victims or their families when criminal charges were laid against the alleged perpetrators. It is my recommendation that the Cornwall Police Service ensure that sexual assault victims—and in the case of child sexual assault victims, their parents and family members—are apprised of the investigation, the laying of charges, and the court proceedings.

Jean Luc Leblanc's trial took place on November 6, 1986. Mr. Leblanc pleaded guilty to two out of the three charges. The charge with respect to Scott Burgess was withdrawn at the request of the Crown. Mr. Leblanc received a suspended sentence and three years probation. Constable Payment does not think he contacted Scott Burgess to discuss the withdrawn charges. He thought that perhaps Bruce Duncan might have discussed the outcome of the Leblanc case with Scott Burgess. However, Scott Burgess testified that he had not been not contacted about the withdrawal of charges involving the sexual acts on him or Mr. Leblanc's 1986 sentence. In my view, it is of great importance that victims and alleged victims of historical child abuse are informed by the police of the outcome of the proceedings against the perpetrator and the sentence imposed by the court. It is also critical that it be explained to such victims and alleged victims that the Crown must meet a high burden of proof in criminal prosecutions and that an unsuccessful prosecution does not mean that the abuse did not in fact occur.

The probation order issued to Mr. Leblanc again did not contain a condition prohibiting him from interacting or associating with the victims, children, or other young people. Constable Payment was not aware at this time that the probation order did not include this condition, which would have provided some protection to former victims of Mr. Leblanc or other children at risk of abuse by this man.

Jean Luc Leblanc was charged and convicted of additional sexual offences as a result of the OPP investigation approximately twelve years later, in 1999. Mr. Leblanc pleaded guilty to a number of sexual charges against children in the Cornwall area as a result of the Project Truth investigation. It is clear that the alleged victims of the Leblanc sexual abuse were not kept informed by the police of the progress and outcome of the 1986 prosecution. They were distressed to learn that Mr. Leblanc was not given a custodial sentence for the multiple acts of sexual abuse on them. Nor were they involved in the sentencing of the man who had sexually abused them in terms of input into the victim impact of the abuse. Moreover, they stated that had the Cornwall police kept in contact with them, they would have probably disclosed additional details. Scott Burgess testified that he would have also disclosed his sister Cindy's abuse if he had been asked such questions in the CPS investigation.

Nor were these child victims offered counselling for the acts of sexual abuse repeatedly committed on them. The importance of police contact with victims of sexual abuse and of providing information on the progress of the investigation and prosecution as well as counselling and support are recommendations that should be implemented by police forces in cases of sexual assault of children, current and historical.

It is also evident that important information was missing from the will-states of the child victims. It is possible that if some of this information had been included, such as the anal intercourse, Mr. Leblanc might have been convicted of other sexual offences and would have received a longer sentence. This would have helped ensure that he was not in contact with other children. In fact, Mr. Leblanc subsequently became a school bus driver. He was prosecuted and sentenced in 2001 and 2002 of sexual offences against multiple child victims. Mr. Leblanc was designated a long-term offender in 2002.

The Cornwall Police Service and the CAS ought to have ensured that they conducted joint interviews with all the child victims to minimize the number of interviews and trauma to the children. This was also important to the success of the criminal prosecution. In addition, the CPS and the CAS ought to have been in better communication to ensure that the children and their families received the necessary information and support during the investigation.

The Burgess children, Jason Tyo, and other children and young people were not adequately protected when Mr. Leblanc was released after his arrest before his trial. Nor were they protected after he served his sentence for sexually abusing Jody Burgess and Jason Tyo. Both the release and the probation order should have contained a condition that Mr. Leblanc not communicate or be in the company of the victims or young persons.

I have concluded from my review of the evidence that Constable Brian Payment failed to conduct a thorough investigation in the Jean Luc Leblanc case. It is also my finding that the Cornwall Police Service failed to properly supervise Constable Payment in the context of this investigation of child sexual abuse.

Investigation of Marcel Lalonde

Constable Kevin Malloy had been assigned to the Youth Bureau of the Cornwall Police Service for only about five days when he became responsible for the Marcel Lalonde investigation. When Constable Malloy contacted C-60, one of the alleged sexual assault victims, on January 9, 1989, this was the officer's first sexual assault investigation. Constable Malloy had never received any training in sexual assault investigations when he was transferred to the Youth Bureau in January 1989.

When Constable Malloy spoke to C-60, this alleged victim of Marcel Lalonde stated that he had been “lured to culprit’s house by alcohol—woke up—culprit performing copulation on him.” He told the CPS officer that he had been fifteen years old at that time.

C-57, another alleged victim, was sixteen years old and in grade 10 when he was allegedly sexually assaulted by Mr. Lalonde. Marcel Lalonde was a teacher at Bishop Macdonell School. During the course of the police interview, C-57 mentioned that C-60 had been at Mr. Lalonde’s house as well as another person (C-59). C-57 believed he could identify some of the other young men at Marcel Lalonde’s home at that time. He was asked to look at yearbooks at the police station and identified two young boys.

Mr. Lalonde was an elementary school teacher. If these were two of his students, they were young boys. Despite learning this, it did not enter Constable Malloy’s mind that perhaps he should contact the CAS to report a reasonable suspicion of abuse. Nor did he contact the school at which Marcel Lalonde taught or the community theatre at which Mr. Lalonde was involved with these youths.

On January 13, 1989, Constable Malloy sought permission from his supervising officer, Staff Sergeant Wells, to extend his report date on the Lalonde occurrence. He wrote that the “case involved possibly four victims of sexual assault”; in addition to C-57, other potential victims were C-60, C-61, C-58, and C-65.

On June 22, 1989, Constable Malloy asked his supervisor if the Lalonde file could be placed in abeyance for a short time as he wished to interview the “suspect.” Staff Sergeant Wells gave the officer permission. The file remained in abeyance when he went on sick leave almost four years later, in March 1993.

Constable Malloy remained on sick leave until May 1996. It seems obvious that when officers are away on such extended sick leave, their files should be reviewed and reassigned to other officers. OMPPAC had been operational for a number of years and this file should have come to the attention of CPS officers.

The alleged perpetrator, Marcel Lalonde, was never interviewed by Constable Malloy. This officer made the decision not to interview the suspect and not to pursue the investigation in the hope that over time more victims would contact the Cornwall police. Clearly his lack of training, experience, and supervision are reasons why this file simply sat in a box in his office for years. Marcel Lalonde continued to teach and had contact with young children at Bishop Macdonell School. Although Constable Malloy was unclear about his obligation to inform other agencies or employers about this case, he did not discuss this issue with his supervisors in the Youth Bureau.

Marcel Lalonde was charged in 1997, eight years after Constable Malloy had been assigned the file, and subsequently convicted for committing sexual offences

against young persons. A search warrant was conducted and pictures of nude young people were found in his home. C-58 was one of the victims/complainants in the 2000 criminal prosecution.

It is clear that Constable Malloy failed to conduct a thorough investigation into the allegations of sexual abuse made against Marcel Lalonde. Constable Malloy was never sanctioned or disciplined by the Cornwall Police Service for his inadequate investigation of allegations of childhood sexual abuse committed by Mr. Lalonde.

In 1989, Constable Malloy had information on the alleged sexual assaults from C-57, who was prepared to proceed with the case. He also had a statement from C-58 and information from C-60. There were several potential victims of abuse known to Constable Malloy in April 1989, who included C-57, C-58, C-59, C-60, C-65, and a boy identified in the yearbook. Constable Malloy agreed that in historical sexual assault cases, it is important for the investigating officer to develop a rapport and trust with the victim. The more the victim feels comfortable with the officer, the more likely he or she will provide details of the alleged criminal offence and agree to testify if criminal charges are laid. Constable Malloy acknowledged that there were common elements in the stories of these victims, for example, alcohol consumption by the young males, some of whom were sexually assaulted when they were asleep. Yet Constable Malloy decided to put the file in “abeyance until further evidence comes in.”

Staff Sergeant Wells testified that June 22, 1989, appears to be the last time he was involved in the Lalonde investigation. He was unaware that Constable Malloy had not interviewed “the suspect,” Marcel Lalonde. Nor did the CPS supervisor know that Constable Malloy did not undertake any further investigation after filing the June 22, 1989, supplementary occurrence report asking that the file be placed in abeyance for a short period. Staff Sergeant Wells testified that this should have come either to his attention or to that of Inspector Trew, who shared supervision duties: “Inspector Trew or myself were together the check and balance system.” They had equal responsibility to ensure that incidents like this were followed up. Yet it is evident that the “check and balance system” did not operate as it should have in the Marcel Lalonde case.

Staff Sergeant Wells agreed that because this was Constable Malloy’s first case in the CIB and his first historical sexual assault investigation, the Constable should have received guidance and been actively supervised during this police investigation. Staff Sergeant Wells also agreed that if Constable Malloy did not take further action on this file after it was placed in abeyance, this was not proper police file management. Staff Sergeant Wells agreed that it was the responsibility of Constable Malloy’s supervisors, of which he was one, to keep

abreast of his files when the officer went on sick leave and when he left the Youth Bureau.

In my view, the Cornwall Police Service failed to conduct a thorough investigation in 1989 into the allegations of sexual abuse made against Marcel Lalonde. Moreover, Staff Sergeant Wells and Inspector Trew failed to properly supervise Constable Malloy in the investigation of the allegations of historical sexual abuse against Marcel Lalonde. Because of the inattention to the file and the failure to contact the CAS and the school, children continued to be at risk of abuse by Mr. Lalonde.

On August 9, 1994, Staff Sergeant Luc Brunet received information from the OPP that in the course of the Project Blue CAS investigation,²¹ David Silmsner had alleged that his former teacher had sexually abused him. The CPS Staff Sergeant learned that Mr. Silmsner had disclosed this information to CAS staff Greg Bell and Pina DeBellis several months earlier, on November 2, 1993. David Silmsner testified that he had been abused by his teacher, Marcel Lalonde, at Bishop Macdonell School when he was thirteen or fourteen years old.

Staff Sergeant Brunet was not aware that the CPS had previously investigated allegations of sexual abuse of other victims by Marcel Lalonde. It was Staff Sergeant Brunet's practice to check OMPPAC and the Canadian Police Information Centre (CPIC) in such circumstances. Although he did not record this, the Staff Sergeant believes that he accessed both OMPPAC and CPIC to see if Marcel Lalonde's name appeared. He testified that he could not find any information on the suspect. Mr. Lalonde remained a teacher in Cornwall at that time.

After a couple of months had passed, Staff Sergeant Brunet decided to close the file. He considered David Silmsner uncooperative for failing to pursue the allegations of abuse and for failing to provide further particulars to the police. This is unfortunate because in February 1994, David Silmsner provided a statement to the OPP regarding his allegation of abuse against Marcel Lalonde. Staff Sergeant Brunet was not aware of this.

In my view, it is important that officers investigating such cases receive training in order to fully comprehend the impact of historical child sexual abuse and the impediments to disclosing details of such abuse to the police. Moreover, Mr. Silmsner had contact with the Cornwall police in 1992 and 1993 regarding his allegations of sexual abuse by Father MacDonald and Ken Seguin, which had been difficult for him. He was also very upset that his statement to the police had been divulged to the media.

21. The Project Blue investigation will be discussed in the institutional response of the Children's Aid Society.

On December 13, 1994, Staff Sergeant Brunet advised Bill Carriere of the CAS that the CPS was “closing the file until Mr. Silmser was ready to discuss the case.”

In October 1996, Constable Desrosiers was asked by his supervisor, Sergeant Snyder, to follow up on a disclosure of abuse made by C-68 to probation officer Sue Lariviere. When they investigated the Lalonde allegations in 1996 and 1997, neither Constable Desrosiers nor his supervisor knew that Constable Malloy had investigated this matter in 1989. Constable Desrosiers testified that he had checked the CPS cards but saw no record pertaining to Marcel Lalonde. The CPS officer did not know that Constable Malloy had documents relating to alleged victims of Lalonde in a box at the Cornwall Police Service. Clearly, it was of great importance that Constable Desrosiers, Sergeant Snyder, and other officers involved in the Lalonde investigation, including other police forces, had knowledge of and access to documents and material relating to the allegations of abuse by this perpetrator.

On January 31, 1997, Constable Desrosiers received a call from C-45 and his brother. C-45 disclosed that both he and his sibling had been sexually assaulted by Marcel Lalonde. The two brothers met with Constable Desrosiers on February 3, 1997. C-45’s brother told the Constable that Marcel Lalonde had been his teacher in grade 8 at Bishop Macdonell School.

Constable Desrosiers interviewed C-45, who also mentioned probation officers Nelson Barque and Ken Seguin. C-45 alleged that when he was in the Cornwall Probation Office for a pre-sentence report, these two probation officers had engaged in sexually inappropriate behaviour. When this disclosure was made, Constable Desrosiers did not know that Mr. Barque had been criminally charged and had pleaded guilty in 1995 to sexual acts involving Albert Roy. Constable Desrosiers claimed that he advised his supervisor about the allegations against Mr. Barque, but he did not follow up with other officers in the CPS or the OPP regarding the allegations against these probation officers. Once again, this is unfortunate because C-45’s allegations connected Nelson Barque, Ken Seguin, and Marcel Lalonde. This information was clearly significant and important to include in a linkages analysis.

On January 28, 1997, OPP Detective Constable Don Genier informed CPS Staff Sergeant Brunet that other victims had come forward after learning that Marcel Lalonde had been charged with sexual assault. One of the alleged victims was C-8. Staff Sergeant Brunet assigned the matter to Sergeant Snyder, who was briefed on February 4, 1997, regarding the complaints. Sergeant Snyder learned that the OPP had a video of Marcel Lalonde with C-8, which Detective Constable Genier brought to Sergeant Snyder on March 13, 1997. Sergeant Snyder was aware that Marcel Lalonde had a connection with David Silmser, another alleged victim.

Sergeant Snyder tried to contact David Silmsner through his wife, Pam Silmsner. Mr. Silmsner made it clear, through his spouse, that “he does not believe he can deal with it right now,” he had “too much on his plate,” and was “having a hard time and wants to get through the MacDonald case first.” After his call with Pam Silmsner on February 19, 1997, Sergeant Snyder did not follow up with David Silmsner regarding his allegations against Marcel Lalonde.

C-8 informed Sergeant Snyder in an interview on March 3, 1997, that he had given a statement to Constable Perry Dunlop in January 1997.²² Sergeant Snyder contacted the Constable at his home to request C-8’s original statement. Problems with disclosure of Perry Dunlop’s notes and other material are discussed later. In early March, Sergeant Snyder also made contact with alleged victim C-66, who provided a statement on March 17, 1997, indicating that Mr. Lalonde, a teacher at his school, had sexually assaulted him.

It is evident that Sergeant Snyder did not record his notes in a proper manner. The CPS officer used a loose-leaf notebook and left blank lines between his notations and blank lines at the end of the page. He should have been inscribing his notes on each line and ensured that there were no blank lines on each page. Sergeant Snyder agreed that his practice of missing lines was not acceptable. He could not provide an explanation and acknowledged in his evidence that this was not the “best practice” because other people “can fill in blanks.”

C-58 was another alleged victim with whom Sergeant Snyder spoke in the last two weeks of March 1997. It is clear that Sergeant Snyder did not have information from Constable Malloy’s 1989 investigation. Sergeant Snyder testified that he couldn’t recall if he had checked the card catalogue to obtain information on Constable Malloy’s investigation of Mr. Lalonde. Sergeant Snyder did not know that C-57 and C-58 had disclosed to Constable Malloy that they had been abused by Mr. Lalonde.

On April 29, 1997, Marcel Lalonde was arrested by Constable Desrosiers and Sergeant Snyder. On the previous day, Constable Desrosiers had obtained a search warrant of Mr. Lalonde’s home, which he executed the same day as the arrest. Constable Desrosiers and Constable George Tyo found five photo albums in the bedroom. Many of the pictures were of teenagers who appeared to be between the ages of fifteen and seventeen. They were drinking alcohol in Marcel Lalonde’s home but they were clothed. There were photographs of both C-45 and C-48. Five photos of nude young persons were found, three of which were of the same male posing on a couch. Constable Desrosiers notified the OPP of the arrest and of the seizure of the photo albums. OPP officers also examined the photos.

22. Constable Perry Dunlop was absent from the force from January 1994 to May 1997.

The OPP had charged Mr. Lalonde with indecent assault a few months earlier, in January 1997. The preliminary inquiry was held in January 1998. It dealt with both the CPS and the OPP charges against Marcel Lalonde.

Several months earlier, Sergeant Snyder had asked Constable Dunlop to give him relevant material in his possession. It became evident at the preliminary inquiry that Constable Dunlop had not disclosed all the documents in his possession, including those pertaining to C-8. Crown Attorney Claudette Wilhelm asked Constable Desrosiers to obtain from Perry Dunlop all notes, newspaper clippings, and relevant documents.

Shortly before the Lalonde trial, Constable Desrosiers and Claudette Wilhelm met with C-8 to prepare him for trial, scheduled for September 11, 2000. C-8 informed Constable Desrosiers and the Crown attorney that alleged abuse on a school trip in Toronto had never happened. The Crown instructed Constable Desrosiers to take a statement of this new information. When Constable Desrosiers took the statement, he asked C-8 whether Constable Dunlop had influenced him when C-8 filed his 1997 statement with the police. C-8 replied that Perry Dunlop had typed out his statement. He also said that the story had been concocted in order “to add fuel to the fire.”

Constable Desrosiers asked the complainant whether he had fabricated any of the other allegations. C-8 assured the officer that all the other incidents with Marcel Lalonde had taken place. Constable Desrosiers met with the Crown, and the statement was disclosed to the defence. He then briefed Sergeant Garry Lefebvre about the disclosure, and perjury charges against C-8 were contemplated but not pursued.

When the Crown and Constable Desrosiers subsequently met with C-8, the complainant told them that he wanted to take the stand, tell his story, and speak the truth. Marcel Lalonde was convicted on November 17, 2000, on charges regarding four complainants—C-45, C-8, C-66, and another individual—and was acquitted of charges in relation to three complainants. It is noteworthy that despite C-8’s recantation of a past complaint, the trial judge accepted C-8’s evidence regarding the abuse by Mr. Lalonde.

It is clear from my review of the investigation of Marcel Lalonde that Cornwall police officers in this and several other investigations did not have information on earlier work that the police force had conducted on the case, such as previous interviews with witnesses and alleged victims. Either the information was not properly recorded or it was not placed onto systems from which it would have been retrievable by other officers. Moreover, officers failed to access OMPPAC when it was introduced in 1989, or other electronic databases such as CPIC, to determine whether other police forces had information on the alleged perpetrator of

historical child sexual abuse. It is critical that the Cornwall Police Service institute measures to ensure that police officers record their notes of these cases on electronic systems such as OMPPAC to ensure that other officers who become involved with a case have easy access to the history of the investigation.

Another serious problem in the Lalonde investigation was that there was a failure to share information and failure to notify other institutions such as the Children's Aid Society and the School Board in order to protect other children and students at risk of abuse by the alleged perpetrator.

It is also evident that Constable Kevin Malloy was not adequately supervised by Staff Sergeant Brendon Wells and the Cornwall Police Service during the Lalonde investigation. Moreover, the CPS did not properly train officers such as Constable Malloy on the conduct of investigations into sexual abuse, and in particular historical child sexual abuse. As mentioned, the CPS also failed to institute and apply proper practices to ensure cooperation with and notification to other public institutions, including the School Board and Children's Aid Society in the context of this historical sexual abuse investigation of teacher Marcel Lalonde. The CPS also did not enforce practices and procedures that would have ensured that notes and records were properly kept and stored and that they were retrievable by other officers involved in the Lalonde investigation.

I discuss in further detail in my Report the failure of CPS to ensure that Perry Dunlop complied with his obligations and duties as a police officer and as a member of the Cornwall Police Service, which included the duty to disclose information relevant to criminal investigations, the duty to provide truthful evidence in criminal proceedings, and the duty not to conduct unauthorized criminal investigations.

Investigation of Complaint of Jeannette Antoine

Jeannette Antoine was moved from one foster home to another during her childhood. Shortly before her fifteenth birthday, she was placed in a CAS group home on 220 Second Street West in Cornwall.

In March 1976, Jeannette Antoine and the five other residents in the group home ran away. They contacted the CAS and spoke to officials about their treatment at the Second Street group home. Jeannette Antoine alleged that she and other residents had been abused.

In 1989, there were allegations, which the CAS later found to be unsubstantiated, that Ms Antoine had physically assaulted her nine-year-old daughter. During the course of the CAS investigation, Jeannette Antoine discussed with CAS caseworkers Greg Bell and Suzie Robinson the abuse she had sustained at

the Second Street group home when she was a child. She described not only the physical abuse but also the sexual acts of staff members at the group home.

At the request of CAS Executive Director Tom O'Brien, a meeting was convened with the CPS to discuss the Antoine allegations. Constable Malloy was assigned the investigation.

Constable Malloy considered Jeannette Antoine "less than cooperative." He had asked the complainant for a written statement, "but it was not forthcoming." The Constable did not appear to have an understanding of the difficulties involved for a victim of childhood sexual abuse to write a statement. This was in large part attributable to the fact that Constable Malloy had no training in historical sexual abuse cases or in sexual assault generally. This case was historical: allegations of abuse in 1975–1976.

A critical problem from the inception of the Antoine investigation was the lack of documentation by Constable Malloy. As Staff Sergeant Derochie commented in his report, Constable Malloy "did not keep proper notes of his involvement in this matter ... The complaint was never registered on OMPPAC, no incident report was ever created, and reports were not submitted."

Constable Malloy was well aware of the importance of registering complaints on OMPPAC. Even though the system was new at the time,²³ Constable Malloy and other CPS officers understood that each new investigation was required to be registered with an incident report on OMPPAC. Constable Malloy understood that documenting the Antoine case and registering it on OMPPAC enabled other officers at the CPS, including his supervisors, to track the progress of the investigation. It also alerted other police forces, municipal and provincial, that this investigation was taking place in Cornwall.

Particularly because this was a historical sexual assault case allegedly committed in 1975, it was important that a comprehensive written record exist, as people's memories fade over time and witnesses may die or move out of the province or country. Had Constable Malloy properly documented this case and registered it on OMPPAC, CPS Constable Shawn White and other police officers involved in the Antoine case in later years would have had the information from 1989.

CPS Staff Sergeant Luc Brunet agreed that registering the matter on OMPPAC is important for both supervision of the file at the first level and management at the second level such as by the deputy chief. By not using OMPPAC, he said, information is denied to other members of the police force such as those supervising an investigation. Staff Sergeant Brunet also acknowledged that registering

23. OMPPAC came online in July 1989.

on OMPPAC is important for historical sexual abuse cases in which perpetrators may have multiple victims in several jurisdictions.

Staff Sergeant Derochie described the failure to register the Antoine matter on OMPPAC as the “ultimate mistake.” He stated that not only did Constable Malloy “not create an OMPPAC incident for the complaint” but he had “no notes indicating that he is investigating the allegations.”

Staff Sergeant Wells was Constable Malloy’s direct supervisor, and Inspector Trew was the officer responsible for the CIB. Unfortunately, Staff Sergeant Wells was on leave for part of October 1989. He underwent surgery in November 1989 and was on leave until June 1990. Inspector Trew reported to the Deputy Chief, who in turn reported to the Chief of the Cornwall Police Service; this was the chain of command.

Staff Sergeant Wells expected Constable Malloy to submit proper reports and to generate an OMPPAC incident number as soon as he had interviewed the alleged victim. Inspector Trew agreed that not registering this matter on OMPPAC was significant and that the Antoine case fell through the cracks. As Staff Sergeant Derochie emphasized, it is “critical ... to record all complaints on OMPPAC immediately.” Chief Claude Shaver also agreed that the Antoine complaint should have been registered on OMPPAC, the investigating officer should have made detailed notes of his involvement in this matter, and reports should have been submitted.

There was clearly a lack of supervision of Constable Malloy by senior officers at the CPS. As Staff Sergeant Derochie said, Constable “Malloy’s supervisors, all the way up the chain of command, had knowledge of the investigation.” However, no senior officer appears to have noticed that an incident report had not been created on OMPPAC, and none of the senior officers seemed to have asked Constable Malloy for reports on the Antoine matter. In fact, Staff Sergeant Derochie wrote, “It could be suggested that Senior Management of the Service showed no interest in the investigation.” Yet, he said, “you have Ms Antoine making allegations that go to the very heart of what the CPS is all about ... [I]t’s an important investigation”; “No one appears to have realized that the allegations were very serious.”

The CAS executive director, Mr. O’Brien, contacted the Cornwall police several times in 1989 to obtain information on the progress of the Antoine matter. In a call in mid-December 1989, Constable Malloy told the executive director that Jeannette Antoine was not cooperating, as she had not provided a statement to the police. In his opinion, there did not appear to be a real complaint. Constable Malloy planned to close the case after consultation with the Crown attorney. Again, Constable Malloy demonstrated that he had inadequate knowledge, due to his lack of training, of victims of childhood abuse.

The Antoine case remained inactive for four months. On February 5, 1990, Jeannette Antoine arrived at the Cornwall police station with a handwritten statement.

Constable Malloy testified that he had difficulty dealing with this complainant. He acknowledged at the hearings that some of the difficulties he encountered with Ms Antoine may have been attributable to the emotional and psychological impact of a victim of sexual abuse. Moreover, Ms Antoine may also have been uncomfortable speaking with a male police officer about the sexual acts. In fact, in the CPS reinvestigation of the Jeannette Antoine allegations in 1994, Constable Sebalj was present with Constable Shawn White for some of the interviews with the complainant, as Ms Antoine was uneasy discussing the details of the abuse with a male officer.

Constable Malloy did not pursue the sexual allegations made by the complainant. Rather, he made the assumption that Ms Antoine did not want to proceed with the sexual acts allegedly perpetrated by staff in the CAS group home. Nor did he interview or try to locate the victims/witnesses named in Ms Antoine's statement. For example, Ms Antoine suggested there was inappropriate sexual behaviour between a fellow resident, C-85, and Bryan Keough. Yet Constable Malloy made no attempts to find C-85 to ask her about some of the allegations in Ms Antoine's statement.

Another problem in the investigation was that Constable Malloy never interviewed Bryan Keough, whom Jeannette Antoine alleged had engaged in sexual behaviour with the children at the CAS-operated home. This was even though Constable Malloy knew that Mr. Keough remained an employee of the CAS at that time. Of significance was that in January 1990 the CAS was considering Bryan Keough's application "to be a foster parent with a view to adopting a specific child."

Between February 5, 1990, when Constable Malloy received Ms Antoine's statement, and April 4, 1990, when the local Crown sent correspondence to the regional Crown, the CPS Constable did not ask either Jeannette Antoine or the CAS for the names and addresses of other residents at the Second Street group home.

Mr. O'Brien made several calls to Constable Malloy and also contacted Deputy Chief St. Denis to find out the status of the police investigation. He knew that Ms Antoine was concerned that Bryan Keough remained on staff at the CAS. Ms Antoine had told Mr. O'Brien on August 23, 1989, about the abuse at the Second Street group home.

Yet the Constable did not take measures to pursue these allegations of sexual molestation by interviewing other potential victims or witnesses or by creating a situation in which Ms Antoine would have been more at ease in providing further

details on the alleged abuse, such as making a female officer available to hear the allegations. In his view, there were not reasonable and probable grounds to lay a criminal charge for the physical abuse. He considered it corporal punishment.

The CPS officer also asserted that if the corporal punishment had crossed the line into a common assault, there was a six-month limitation period to lay the charge for the summary conviction offence—a further obstacle. But Constable Malloy acknowledged at the hearings that if Jeannette Antoine had sustained bodily harm from these physical acts, he could have proceeded by way of indictment and the six-month limitation period would not have presented a problem for the prosecution. Ms Antoine told the CAS in August 1989 that Bryan Keough had beaten her and hurt her arm when she was at the Second Street group home. The limitation period may not, in fact, have been an obstacle with respect to laying criminal charges against CAS staff workers.

Constable Malloy agreed that if he had contacted the CAS to obtain information on the residents of the Second Street home mentioned in Jeannette Antoine's statement, this may have advanced the CPS investigation. As Constable Malloy conceded, it was "[o]ne of the things I could have done." And, he acknowledged, perhaps it would have resulted in the laying of criminal charges in 1989 or 1990.

Staff Sergeant Derochie wrote in his report, "[T]here was no activity on this case after April 10th, 1990 by the Crown's Office or by the Police Service." Constable Malloy's explanation was that he was waiting for contact from the Crown, which, he said, did not occur. He reiterated that he "had credibility issues" and "believed" only "parts" of Ms Antoine's statement. The officer maintained that he did not know the CAS had closed the Second Street home nor that all the staff involved with the home, with the exception of Bryan Keough, had tendered their resignations because they refused to employ alternative forms of disciplining the children in that residence. The Antoine file remained in abeyance.

In the summer of 1992, Suzanne Lapointe, Jeannette Antoine's sister, spoke to Constable Malloy about alleged sexual abuse by her foster father when she was a ward of the CAS. Constable Malloy asked Ms Lapointe to send a written statement detailing her allegations. It is clear in the letter subsequently written by Ms Lapointe that she was anxious to deal with the sexual abuse to help her heal from this childhood trauma. Again, no report was filed by Constable Malloy and the letter was not entered on OMPPAC. As Staff Sergeant Derochie commented, "[T]he letter simply slip[ped] through the cracks."

In an investigation on an unrelated matter, Constable Sebalj came into contact with Jeannette Antoine in July 1992. At that time, Ms Antoine told Constable Sebalj about abuse by staff at the CAS-operated Second Street group home.

Because Constable Malloy was responsible for this file, Constable Sebalj did not pursue this matter.

But in November 1993, Constable Sebalj renewed discussions with Ms Antoine on the alleged abuse at the CAS group home. On her own initiative, the Constable asked Ms Antoine to come to the police station for an interview. Constable Sebalj was not authorized by her superiors to conduct an investigation of the Antoine case. Moreover, Constable Sebalj failed to keep proper records and notes of her contacts with Ms Antoine. Staff Sergeant Brunet was surprised to learn that she had conducted this interview with Ms Antoine; he would have expected the Constable to consult him and discuss the matter. Similarly, Staff Sergeant Derochie testified that he did not consider it appropriate in the circumstances for Constable Sebalj to investigate this matter. The Constable failed to record on OMPPAC in a timely manner her contacts and investigation of the Antoine allegations. This occurred only after the matter became public.

In January 1994, Charlie Greenwell interviewed Ms Antoine for CJOH-TV, the local CTV station, on her allegations of historical abuse at the group home operated by the CAS. There was a broadcast on television.

On January 11, 1994, Deputy Chief St. Denis asked Staff Sergeant Derochie to conduct an internal investigation of the Antoine case. The Staff Sergeant met with Constable Sebalj, Constable Malloy, and Jeannette Antoine in January 1994. Ms Antoine made it clear that she wanted the police to investigate the physical and sexual abuse she had suffered at the CAS group home on Second Street. Staff Sergeant Derochie decided that Constable Shawn White, whom he considered experienced, should investigate the case.

In September 1994, Constable White sent Peter Griffiths, Director of Crown Operations, Eastern Region, his investigation brief on the allegations of Jeannette Antoine. Mr. Griffiths was asked to give his opinion as to whether reasonable and probable grounds existed to lay criminal charges. Mr. Griffiths met with Constable White and Crown Attorney Murray MacDonald on October 19, 1994, to discuss his conclusions. In his letter of October 24, 1994, Mr. Griffiths concluded that there were no reasonable and probable grounds to lay charges on any of the allegations. No criminal charges were laid against staff at the Second Street group home for the allegations of physical and sexual abuse made by Jeannette Antoine.

Staff Sergeant Derochie's review of the Antoine investigation was completed and his report finalized in April 1995. The report concluded that there was a systemic failure by the Cornwall police in the case. Staff Sergeant Derochie's criticism was directed not only at the investigating officer, Constable Malloy, but also at the supervising officers, the Deputy Chief, and the Chief of Police.

The first and "most significant mistake," stated Staff Sergeant Derochie, was "not creating an OMPPAC incident": "It was clearly Cst. Malloy's responsibility

to record the complaint and thus generate an OMPPAC incident number. Had that been done, the OMPPAC system would have reminded Cst. Malloy and his supervisors that this investigation required attention.”

He was also very critical of Constable Malloy’s inadequate note taking: “The second mistake, and one that is inexcusable, is Cst. Malloy’s failure to keep accurate notes of his involvement with this incident ... [N]ote keeping, particularly for C.I.B. investigators, is critical and can not be overstated. Cst. Malloy was, during this time in question, experienced enough to know that note keeping was very important.”

Staff Sergeant Derochie also expressed general concern about the loose-leaf binders used by CPS officers to record notes. As I discuss in the context of other CPS investigations, this was a pervasive problem in this police force. Constable Malloy was informally counselled by Staff Sergeant Derochie for his failure to keep proper notes.

Staff Sergeant Derochie was also critical of Constable Malloy’s supervisors, who ought to have ensured that the Antoine investigation was progressing: “They ought to have noticed that an incident had not been created and that reports were not being submitted.” There should have been closer supervision of an officer’s caseload and periodic inspections of notebooks. Constable Malloy had a considerable caseload at the time of the 1989–1990 Antoine complaint and in the Staff Sergeant’s opinion, should not have been assigned other cases until he dealt with Ms Antoine’s complaint. Constable Malloy’s supervisors should have known that “this was an investigation of some consequence and had to be dealt with in a timely manner,” concluded Staff Sergeant Derochie.

Another serious problem regarding supervision was that both Inspector Trew and Staff Sergeant Wells were absent from the CIB for significant periods beginning in October 1989 and into 1990. To exacerbate the matter, when Staff Inspector Stuart McDonald became the Officer in Charge of the CIB on January 1, 1990, he was not briefed on the Antoine complaint and had no knowledge that such an investigation was in fact being conducted. Staff Sergeant Derochie concluded that there was a lack of continuity of supervisors in the CIB as well as in other areas of the organization.

Criticism was also directed at the Chief and Deputy Chief of the Cornwall Police Service. Both had knowledge of the Antoine complaint but seemed to have “lost track of the complaint the minute it was turned over to Cst. Malloy.” In Staff Sergeant Derochie’s view, the Chief and Deputy Chief “should have been kept informed on the progress of this investigation,” they “should have recognized the seriousness of the allegations,” and they should have “ensured that the investigation was proceeding expeditiously.” Clearly, the chain of command failed to monitor the progress of the investigation. Staff Sergeant Derochie

wrote: “No one appeared to have recognized the sensitivity of the subject matter involved in these allegations, nor the potential consequences that an improper investigation might mean to the agencies involved.”

Staff Sergeant Derochie questioned why the local Crown, Mr. Johnson, who believed the Antoine case had merit, sought the advice of the regional Crown as to whether charges should be laid. The problem became more serious, as the local Crown claimed he did not receive the April 10, 1990, response from the regional Crown. Neither the regional Crown nor the local Crown followed up on the Antoine case.

In Staff Sergeant Derochie’s opinion, there was no cover-up in the CPS investigation. As he wrote in his report to Acting Chief Johnston, “Mistakes were made, case management and supervision was non-existing and there may even have been a degree of incompetence involved, but not a cover-up.”

He suggested amendments to CPS directives to address weaknesses in procedures identified in the Antoine case as well as in other cases. Staff Sergeant Derochie had similar concerns about case management, supervision, record keeping and delay in the Silmsier investigation. He thought that the Antoine, Silmsier, and Earl Landry Jr. investigations suffered from similar deficiencies, indicating that a systemic problem existed in the Cornwall Police Service. I agree.

It is my view that Constable Malloy and the Cornwall Police Service failed to conduct a thorough and timely investigation into the Antoine allegations of historical sexual abuse. Constable Malloy failed to keep proper notes and records of the investigation. Moreover, Staff Sergeant Brunet, Staff Sergeant Wells, and Inspector Trew failed to properly supervise Constable Malloy during the investigation of the Antoine allegations.

Chief Shaver should have ensured that procedures were in place such that investigators were properly supervised in the context of investigations of sexual abuse of young people. He should have ensured that such investigations were assigned high priority and conducted in a timely manner. And Deputy Chief St. Denis should have properly supervised the head of the CIB to ensure that each investigation was conducted in a thorough manner.

Constable Malloy’s supervisors should have ensured that his notes on the investigation were properly reported and stored and that they were retrievable. They also should have offered support to the complainant to enable her to provide details on her allegations of abuse. It is evident that the Cornwall police failed to train members of the force on the conduct of investigations into allegations of historical sexual abuse. Another failing is that the allegations of Suzanne Lapointe were not pursued by the Cornwall Police Service.

I also find that Constable Sebalj interviewed Jeannette Antoine without authorization, failed to keep proper notes of her contacts with Jeannette Antoine,

and failed to update OMPPAC in a timely manner with respect to her contacts with Ms Antoine.

It is my conclusion that the Cornwall Police Service unreasonably delayed the investigation and did not properly investigate the allegations of abuse by Jeannette Antoine in 1989. This equally applied to the allegations of abuse by Suzanne Lapointe.

Allegations by David Silmsers of Sexual Abuse by a Priest and Probation Officer

Sergeant Steve Nakic received a call at the Cornwall police station from David Silmsers on December 9, 1992. Mr. Silmsers told the CPS officer that when he was an altar boy at St. Columban's Church twenty years before, Father Charles MacDonald had sexually assaulted him. He also said that Cornwall probation officer Ken Seguin, a friend of the priest, had sexually abused him.

Sergeant Nakic spoke that day to Staff Inspector Stuart McDonald, head of the CIB, about the allegations of sexual abuse by Mr. Silmsers. The Staff Inspector thought this case "needed a very experienced investigator."

Staff Inspector McDonald thought about the resources and the officers available to investigate this case. Constable Sebalj was in the Youth Bureau, but he "really didn't think that she had enough experience to be able to handle a case of this possible magnitude." Constable Sebalj was the only officer in the Youth Bureau at that time but she had a relatively heavy caseload, was "fairly new in the Branch," and in Staff Inspector McDonald's view, did not have the experience for a case of this complexity and high profile. Staff Inspector McDonald concluded that Sergeant Claude Lortie, an experienced investigator, was "probably the best person at that time to do the investigation" of the sexual abuse allegations by David Silmsers.

On Staff Inspector McDonald's instructions, Sergeant Nakic called David Silmsers and informed him that a police officer would come to Bourget, where he resided, within a week.

It is important to note that Sergeant Nakic did not create an incident number on OMPPAC when he received the December 9, 1992, complaint, and nor did Sergeant Lortie, who was assigned the file the following day. Staff Sergeant Brunet agreed that an incident number ought to have been created on OMPPAC when the complaint was received.

Sergeant Lortie called David Silmsers to arrange a meeting. Mr. Silmsers told the CPS officer that he did not want to meet before Christmas as he did not want to "ruin anybody's holidays." Sergeant Lortie explained that he had surgery scheduled for January 4, 1993, and would not be at work for two weeks. As a result, a meeting was scheduled for January 18, 1993.

The January 18, 1993, meeting between Sergeant Lortie and Mr. Silmsers never took place. Deputy Chief St. Denis told Sergeant Lortie before his surgical procedure that the file would be reassigned, as the scheduled date to meet the complainant was too long to wait for the interview. The Deputy Chief decided to transfer the file to Staff Sergeant Brunet, who had recently succeeded Staff Inspector McDonald as the Officer in Charge of the CIB.

Deputy Chief St. Denis was very concerned about the delays in this investigation. One month had lapsed since the December 9, 1992, call and the complainant still had not yet been interviewed by the police. At the bottom of the transmittal slip dated January 8, 1993, Deputy Chief St. Denis noted, “[O]ne month already went by on this.”

Staff Sergeant Brunet received the transmittal slip on January 12, 1993. He immediately went to speak with Sergeant Lortie to discuss the Silmsers file. Ironically, Sergeant Lortie had returned to work early and was at the CPS on January 12. He explained to Staff Sergeant Brunet that an interview with David Silmsers had been arranged for January 18, 1993. Although Sergeant Lortie was available to continue with the investigation, Staff Sergeant Brunet understood that the Deputy Chief wanted the CIB to assume responsibility for the file.

On January 13, 1993, Staff Sergeant Brunet decided to assign the Silmsers file to Constable Sebalj who had only one year of experience in the Criminal Investigation Bureau. She was the most junior officer in the CIB. Staff Sergeant Brunet had serious resource problems when he became the Officer in Charge of the CIB in January 1993.

In his review of the investigation, Staff Sergeant Derochie was critical that the Silmsers file, a potentially complicated and high-profile case that required an experienced officer, had been removed from Sergeant Lortie’s responsibility and assigned to Constable Sebalj.

The importance of this became even more apparent when the complainant requested a male police officer. David Silmsers was uncomfortable discussing with a female police officer the details of the sexual abuse by the priest and probation officer. Staff Sergeant Derochie could not understand why Sergeant Lortie did not resume the investigation when he returned from his surgery on January 12, 1993. As Staff Sergeant Derochie stressed in his testimony, Sergeant Lortie had sixteen years of experience as an investigator and the victim had asked for a male officer.

On January 13, 1993, Constable Sebalj telephoned David Silmsers. It was clear from the very first contact with the complainant that Mr. Silmsers was uneasy discussing the allegations of sexual abuse in the presence of a female police officer.

On January 26, 1993, Mr. Silmsers, who was highly agitated, made it clear to Chief Shaver that he did not want to be interviewed by a female police officer. The

Chief tried to calm him, but the complainant continued to raise his voice. He told Mr. Silmsen that the CPS would investigate the matter as quickly as possible and that he would consider Mr. Silmsen's request for a male officer.

No policy existed at the Cornwall Police Service regarding the assignment of same-sex officers when requested by a complainant or victim in a sexual assault case. Nor was there a practice of accommodating the gender preference of male victims of abuse when interviewed by the police. This was confirmed by Chief Shaver. In my view, a policy should be developed to ensure that in cases of sexual assault, the complainants and other alleged victims be permitted to select the gender of the officer who will interview them. This will not only ensure that the trauma of the complainant and alleged victims is reduced but will also foster a more complete and accurate account of the alleged sexual abuse, which will enhance the success of a prosecution that may ensue.

In my opinion, the CPS should have accommodated David Silmsen's request for at least two important reasons. First, it would have lessened his anxiety, and second, it would have enhanced his ability to provide intimate and personal details of the sexual assaults allegedly perpetrated on him. This would have fostered the ability of the CPS to obtain the necessary information for their investigation.

Another matter that demonstrated poor judgment on the part of the CPS was that all three officers at the Silmsen interview took notes. The officers should have been aware that three sets of notes were likely to contain some differences in the comments attributed to the complainant in the interview. Staff Sergeant Brunet testified that the common practice at police interviews at that time was generally "one note taker and one interviewer." Staff Sergeant Derochie agreed that this was not an ideal way to conduct an interview.

In my view, it is very important that CPS officers receive appropriate training on note taking and that a protocol be developed on recording information by videotape or audiotape from witnesses in police interviews. It is important that the technology—video and audio—used by officers is of high quality to ensure that the words, gestures, and body language of the person interviewed is accurately and fully recorded.

In the interview, Mr. Silmsen discussed the sexual abuse perpetrated by Ken Seguin, who had formerly been his probation officer. Mr. Silmsen explained that he had been living on the street and that Mr. Seguin offered him food and a room in exchange for sexual favours. Mr. Silmsen also described the alleged acts of sexual assault engaged in by Father Charles MacDonald. Mr. Silmsen told the three police officers that he had spoken with Monsignor Donald McDougald and stressed that "all he wanted was a letter of apology from him for what had happened in the past." As Constable Malloy said in his testimony, it seemed that

Mr. Silmsner was seeking an apology from the clergy at this time rather than a civil settlement. David Silmsner reported that on the morning of the police interview, Father Charles MacDonald's lawyer, Malcolm MacDonald, had called him. It was apparent to the officers that Mr. Silmsner was talking to representatives of the Church regarding the sexual abuse by Father Charles MacDonald. Constable Malloy agreed that it probably would have been a "good idea" to caution and explain to Mr. Silmsner the dangers of making disclosures to third parties, such as the Church. For example, inconsistent statements could be used by defence counsel to impugn the credibility of the complainant. This could hinder the success of a criminal prosecution of the priest.

It was also clear from this January 1993 interview that David Silmsner was prepared to pursue criminal charges against the alleged perpetrators. Inscribed in Constable Malloy's notes is, "Willing to go to court, will support a prosecution '100 per cent.'" This statement was made after Mr. Silmsner had described the sexual acts committed by Father MacDonald and Ken Seguin. Mr. Silmsner did not make any distinction between the two alleged perpetrators at the time he made the statement to the three officers.

The interview was not completed. The three officers handed Mr. Silmsner a blank form and ask him to fill it out and return it to the Cornwall police. Constable Malloy conceded that it would have been preferable to have David Silmsner complete the statement on the day of his interview. It was the CPS practice at that time for a statement to be taken directly by the officers. As Staff Sergeant Derochie made clear at the hearings, he did not endorse the practice of instructing victims in assault cases to write their own statements. Constable Malloy also agreed that by having the victim prepare his statement without any guidance from the police, it increased the possibility of discrepancies between that statement and the previous statement he made to the police in the interview; again, this could impair the credibility of the victim in a subsequent prosecution.

In my opinion, this also was not an exercise of good judgment by the CPS officers. Moreover, the officers should have understood that it may be very difficult for child victims of historical sexual abuse to provide written statements to the police. Mr. Silmsner stated that he was not given guidance by the CPS on how to write the statement, and he described the difficulty he had in reliving the painful experiences and committing them to paper.

Constable Kevin Malloy did not distribute his notes of this interview with Mr. Silmsner to other CPS officers involved in the Silmsner case. These notes remained on his desk, and this written record of the Silmsner interview was not provided to others involved in the investigation.

A few days after the interview, David Silmsers called Constable Malloy. In the February 1, 1993, call, Mr. Silmsers said that he had been contacted by Monsignor McDougald, who had asked him to attend a meeting with three priests and some other people. Constable Malloy considered it “suspicious that they wanted to meet with him.” The CPS officer cautioned Mr. Silmsers against attending this meeting of clergy and others affiliated with the Diocese.

When Constable Sebalj met with Mr. Silmsers on February 9, 1993, he discussed his meeting with the Diocese and the lawyer representing the Church. Mr. Silmsers said he thought the Church officials “believed” him, and he mentioned that the Diocese had offered him “psychological help.” He also told Constable Sebalj that he might proceed civilly after the criminal process was completed. Mr. Silmsers also told her that he had not yet completed his written statement.

The following day, David Silmsers telephoned Constable Sebalj to advise her that he had contacted Ken Seguin, who was “running scared”; he had told the probation officer that criminal charges would be laid against Father MacDonald. Constable Sebalj’s notes of the February 10, 1993, telephone call state: “T/C from V[ictim] advises he called Seguin who is ‘running scared’ advised him he’s laying charges on McDonald—stated he’s getting very mad.”

As Staff Sergeant Derochie stated in his evidence, there does not appear to have been any follow-up by the officer with regard to this statement: no CPIC check and no interview of Ken Seguin by Constable Sebalj. In fact, Mr. Seguin was never investigated by the Cornwall police with regard to the Silmsers allegations of sexual assault.

On February 16, 1993, David Silmsers provided his written statement to Constable Sebalj. In it, Mr. Silmsers stated that he became an altar boy at St. Columban’s Church when he was twelve years old and came into contact with Father Charles MacDonald. He described the grooming, sexual advances, and details of the sexual acts. He also discussed the repeated sexual molestation by Father MacDonald’s close friend, Ken Seguin. David Silmsers also described the devastating impact of this sexual abuse on his life.

On February 25, 1993, Malcolm MacDonald, the lawyer representing Father Charles MacDonald, informed Constable Sebalj that his client was prepared to take a lie detector test. Despite this offer, Father MacDonald was never asked by the CPS to do so. As well, neither Father MacDonald nor Ken Seguin were ever even interviewed by the Cornwall police.

In March and April 1993, Constable Sebalj interviewed individuals who disclosed that they, too, had been sexually assaulted by Father Charles MacDonald in their youth.

On March 4, 1993, Constable Sebalj asked Constable Snyder to conduct an analysis of Mr. Silmsers's statement. He concluded that there was veracity regarding the allegations of historical sexual assault made by David Silmsers.

When Constable Sebalj and Sergeant Lefebvre met with David Silmsers on March 10, 1993, to discuss further details of his statement, the complainant said he did not feel he could focus on both Father MacDonald and Ken Seguin at the same time. As Staff Sergeant Brunet explained, it was not that David Silmsers did not want to pursue a criminal investigation of Mr. Seguin; rather, he did not want to pursue both investigations at the same time.

As mentioned, the allegations of sexual abuse against Ken Seguin were not pursued or investigated by the Cornwall Police Service. Other possible victims of the probation officer were not interviewed, nor was the suspect, Mr. Seguin. In addition, a decision was made not to contact Mr. Seguin's employer, the Ministry of Correctional Services.

On March 12, 1993, a former altar boy, C-3, disclosed to Constable Sebalj that Father MacDonald had sexually molested him, and C-56, another former altar boy, made a similar disclosure on April 3, 1993. Staff Sergeant Brunet acknowledged that the interviews of C-3 and C-56 lent credibility to the allegations of David Silmsers. Constable Sebalj also made contact with two other altar boys. She learned from these discussions that Father MacDonald kept pornographic magazines under his bed. Unfortunately, however, after April 1993, no further investigative steps were taken by Constable Sebalj for four months. No other interviews were conducted with other potential victims or witnesses. The investigation remained dormant until the end of August 1993.

Constable Sebalj received a telephone call from Father MacDonald's lawyer on August 23, 1993. Malcolm MacDonald asked her for an update on the status of the investigation. She told defence counsel that she intended to meet with the Crown. In my view, Malcolm MacDonald was monitoring the police investigation. In August 1993, he was trying to persuade the Diocese to enter a financial settlement with Mr. Silmsers. Malcolm MacDonald at that time was involved in arranging an illegal financial settlement between the Diocese of Alexandria-Cornwall, Father MacDonald, and the alleged victim, David Silmsers, which would have the effect of ending the criminal investigation. Malcolm MacDonald subsequently pleaded guilty on September 12, 1995, to attempt to obstruct justice in a criminal prosecution.

On August 24, 1993, Constable Sebalj received a call from David Silmsers, who asked for a progress report on the Father MacDonald investigation. According to her notes, she told Mr. Silmsers that she was waiting for a meeting with a Crown outside Cornwall to review the file and he replied that he was "not in any hurry." Constable Sebalj asked Mr. Silmsers if he was receiving counselling, to which he replied that the "Church won't help" and he had "no \$." The Constable

asked Mr. Silmsen in that call to obtain his school records. In my opinion, Constable Sebalj should have had Mr. Silmsen sign a release so that the CPS could obtain this information months earlier. As I recommend in my Phase 2 Report, a victim liaison person should be appointed for every sexual assault case. Had that been the situation in 1993, Constable Sebalj and the victim liaison would have identified the need for counselling and could have directed the complainant to appropriate services.

On September 3, 1993, Sean Adams, Mr. Silmsen's lawyer, called the Cornwall police and spoke to Staff Sergeant Brunet. Mr. Adams relayed that Mr. Silmsen no longer wished to pursue the criminal investigation of Father Charles MacDonald. Staff Sergeant Brunet made it clear to Mr. Adams that he was not accepting this direction. He told Mr. Silmsen's lawyer that he would be instructing the investigating officer to meet with Mr. Silmsen to discuss the reason he wanted to withdraw his complaint.

Staff Sergeant Brunet was concerned that Mr. Silmsen was not continuing with the criminal investigation because of the civil settlement with Father MacDonald and the Diocese. The CPS officer was unaware that one of the conditions of the settlement was the withdrawal by Mr. Silmsen of the criminal complaint. Staff Sergeant Brunet neither reviewed nor instructed Constable Sebalj to examine the settlement documents. In my view, he should have instructed her to obtain the settlement documents.

Staff Sergeant Brunet decided to contact Crown Attorney Murray MacDonald. He had two main issues he wished to discuss: (1) the legality of the settlement—the complainant's withdrawal from the criminal investigation as a result of the fact that Mr. Silmsen had reached a civil settlement with the alleged perpetrator and the Diocese; and (2) whether the criminal prosecution could proceed with an unwilling complainant. Staff Sergeant Brunet claimed that when he made the September 8, 1993, call, it did not occur to him that Murray MacDonald had previously indicated that he had a conflict of interest on this file because of his own involvement with the Catholic Church. In this call, Murray MacDonald advised Staff Sergeant Brunet that a prosecution could not proceed without the full cooperation of the victim.

Staff Sergeant Brunet instructed Constable Sebalj to follow up with Mr. Silmsen to determine if he had been coerced into withdrawing from the criminal investigation of Father Charles MacDonald. Constable Sebalj had received a call on September 9, 1993, from David Silmsen's sister, who told the Constable that her brother had received a \$32,000 settlement.

After receiving a letter from the Crown, Staff Sergeant Brunet concluded that the Silmsen complaint could no longer proceed and that criminal charges would not be laid against Father MacDonald. Chief Shaver was very upset when he

learned about the civil settlement and Mr. Silmsner's decision to withdraw from the criminal case. Murray MacDonald told the Cornwall Chief of Police that it was not illegal for a complainant to pursue a civil settlement at the same time as a criminal investigation. But what was not known at that time by the Crown was that the document that Mr. Silmsner had signed required him to discontinue any civil or criminal proceedings against the alleged perpetrator. And that was illegal.

On September 29, 1993, David Silmsner arrived at the Cornwall police station to provide written notice that he wanted to end the investigation of the sexual abuse allegations against Father MacDonald. Constable Sebalj met with Staff Sergeant Brunet on September 29, 1993, to confirm that David Silmsner had retained a lawyer, that he was satisfied with the legal advice he had received, that he no longer wished to continue the criminal investigation of Father MacDonald, and that he had confirmed this in writing. Constable Sebalj also discussed Mr. Silmsner's agitation about receiving a call from Helen Dunlop. It was at that time that she realized the reason Ms Dunlop was contacting the complainant. Constable Sebalj told Staff Sergeant Brunet that Constable Dunlop had asked her if he could read David Silmsner's statement, which she willingly gave to him. It became apparent to the officers that Constable Dunlop had shared this statement with individuals outside the Cornwall Police Service.

After discussions with the Deputy Chief, Staff Sergeant Brunet asked Constable Dunlop to meet with him. Perry Dunlop said he was concerned that the allegations made by David Silmsner had not been properly investigated. Constable Dunlop also expressed concern about probation officer Ken Seguin. He mentioned the Varley incident, in which a probationer had apparently been drinking at Mr. Seguin's home hours before the homicide of one of his friends.

Staff Sergeant Brunet advised Constable Dunlop that he was compromising his oath of secrecy as a police officer by sharing information with his wife about a case. He was breaching the *Police Services Act*. Staff Sergeant Brunet alluded to an incident in the mid-1980s involving damage to Constable Dunlop's police cruiser in which the Constable had been charged with neglect of duty and deceit under the *Police Services Act*. He reminded Constable Dunlop that he had a family and cautioned him that if his wife did not stop this behaviour, this would escalate into a serious matter. Staff Sergeant Brunet cautioned the officer not to compromise his career.

Perry Dunlop asked Constable Quinn to come to his home. Michael Quinn was a friend and a colleague, as well as the representative of the Police Association. Constable Dunlop told Constable Quinn that he had given a copy of the David Silmsner statement to the Children's Aid Society. Constable Dunlop stated that if there was truth to the allegations made by David Silmsner, the perpetrators, who remained in the community, could victimize other children.

Perry Dunlop was worried about both Father Charles MacDonald and Ken Seguin. Constable Dunlop also thought that the CPS investigation was sub-standard.

Perry Dunlop was concerned about the ramifications of his behaviour with respect to management at the Cornwall Police Service.

Nine and a half months had passed since Mr. Silmsner had disclosed to the Cornwall police that he had been sexually molested by Father MacDonald and probation officer Ken Seguin. Mr. Silmsner had contacted the police on December 9, 1992, and it took until September 30, 1993, for the Cornwall police to contact the Children's Aid Society to alert the agency that other children might be at risk of sexual abuse. CAS Executive Director Richard Abell was also trying to reach Chief Shaver on September 30.

On October 1, 1993, Chief Shaver met with Richard Abell and Angelo Towndale. At this meeting, Chief Shaver learned that Constable Dunlop had taken David Silmsner's statement from the Cornwall Police Service to the Children's Aid Society without the knowledge or permission of his supervisors. Chief Shaver was concerned.

Mr. Abell told the Chief of Police that he considered David Silmsner's allegations in the statement to be highly credible. Claude Shaver explained that he had spoken to the Crown, who had indicated that there was no basis to pursue a criminal charge and to do so could result in malicious prosecution. Inscribed in Mr. Abell's notes is: "Chief says his dept. 'screwed up big time' on this—investigation not done—put on 'back burner'—Heidi Black²⁴ facing discipline."

Chief Shaver denied that he told the CAS executive director that the Cornwall Police Service "screwed up big time" in the investigation. He claimed that this comment related to the Silmsner statement leaving the police department and being given to the Children's Aid Society. Chief Shaver also asserted that a comment about disciplining Constable Sebalj was in reference to the release of the information, not to the Silmsner investigation. Having heard the evidence of Chief Shaver and Mr. Abell and having reviewed Mr. Abell's copious notes, it is my view that Chief Shaver was acknowledging to the CAS executive director that his police service had "screwed up big time" in the investigation of the Silmsner complaint of sexual abuse.

Chief Shaver was distressed that Constable Dunlop had given the Silmsner statement to the Children's Aid Society. Perry Dunlop had not been assigned this investigation, nor was he involved in the Silmsner file. In the Chief's view, although Constable Dunlop was concerned about the protection of children, he had no authority to give this information to Richard Abell.

24. He is referring to Constable Heidi Sebalj.

Chief Shaver claimed that at the time of this meeting with the CAS, he was not aware that the Silmsers file had not been recorded on OMPPAC, as required. He testified that it was only when he returned to the police station and spoke to Staff Sergeant Brunet that he learned that information on the Silmsers investigation was not on OMPPAC.

On that afternoon, which was a Friday, Chief Shaver met with Deputy Chief St. Denis and Staff Sergeant Brunet to discuss his concerns about the Silmsers file. The Chief made it clear that he wanted the notes and reports on OMPPAC immediately, and moreover, that the documents pertaining to the investigation were to be placed in a project file by the following Monday morning. As Staff Sergeant Brunet acknowledged, the file had been open for nine months, yet nothing had been inserted on OMPPAC. Staff Sergeant Brunet agreed with the decision to create a project file as there had been a “leak” of information to third parties and it was important to protect the identity of people who had been interviewed.

Another matter discussed by Chief Shaver at the meeting was his intention to visit a senior official in the Roman Catholic Church, the Pope’s representative in Ottawa. Staff Sergeant Brunet had previously discussed with Deputy Chief St. Denis Constable Dunlop’s suggestion that the Cornwall police meet with the Church, which Staff Sergeant Brunet endorsed. As he said, “[W]e were not pursuing the criminal investigation at this point or it didn’t appear that Heidi [Sebalj] was meeting with Mr. Silmsers at this time ... [W]e appeared to have some pretty serious roadblocks into our criminal investigation.” Chief Shaver believed the conduct of the Diocese in this matter had greatly hindered the criminal investigation. He planned to visit the Papal Nuncio in Ottawa, the Bishop’s “boss,” to register his complaint. He did not intend to discuss the Silmsers case with Bishop Eugène LaRocque, who in the past had not been cooperative in the Deslauriers investigation. Moreover, Chief Shaver was disturbed that the Bishop had agreed to the civil settlement.

It is noteworthy that at this October 1, 1993, meeting, no discussion took place between the Chief, Deputy Chief, or Staff Sergeant Brunet regarding the importance of contacting Mr. Seguin’s employer, the Ministry of Correctional Services. Staff Sergeant Brunet testified that if an investigation of Mr. Seguin had been initiated by the CPS after Mr. Silmsers’s complaint of sexual abuse, the Ministry of Correctional Services was likely to have been contacted, as the investigating officer would have required documents and information. The Ministry would then have become aware of the allegations against their employee. Moreover, there was no contact by the CPS with the Cornwall Probation Office or other Ministry of Correctional Services officials prior to late November 1993, when Mr. Seguin committed suicide.

On October 7, 1993, Chief Shaver and Staff Sergeant Brunet met with the Papal Nuncio, Archbishop Carlo Curis. The CPS officers thought that the criminal investigation had been constrained by the actions of the Diocese. They wanted to convey to the Papal Nuncio that the civil settlement was not in the public interest and that it did not address concerns for the safety of young people in the Cornwall community. The Papal Nuncio recommended that the Chief meet with Bishop LaRocque.

Chief Shaver contacted Bishop LaRocque's office and both he and Staff Sergeant Brunet met with the Bishop that day. The Bishop, who was already conversant with the allegations against Father Charles MacDonald, assured Chief Shaver and Staff Sergeant Brunet that he would cooperate with the CPS. Bishop LaRocque said that Monsignor McDougald was responsible for matters of this kind in the Diocese. He said that Monsignor McDougald had confronted Father Charles MacDonald with the Silmser allegations; the priest had denied them, and both Bishop LaRocque and Monsignor McDougald believed Father MacDonald.

Chief Shaver testified that Bishop LaRocque confirmed that David Silmser had originally sought an apology from the Diocese. He also testified that Bishop LaRocque explained there had been a \$32,000 settlement; \$10,000 was paid by the Diocese and \$10,000 by Father Charles MacDonald, but the Bishop did not disclose the source of the remaining \$12,000 payment. Chief Shaver did not ask the Bishop to identify the source of the \$12,000 payment. It "never dawned" on Chief Shaver that Ken Seguin could be involved in the settlement with Mr. Silmser. The Chief's primary concern was that the Diocese had tied his hands by entering into the monetary settlement.

Chief Shaver did not ask Bishop LaRocque whether there were confidentiality provisions in the settlement, nor did he ask the Bishop for a copy of the settlement documents. Claude Shaver believed the settlement was responsible for the termination of the criminal investigation. He agreed that in retrospect, the CPS should have examined the settlement documents prepared by the Diocese and signed by David Silmser. When asked by Commission counsel whether it had dawned on Chief Shaver that the monetary settlement could be illegal, he replied "I had not thought about it at the time."

When Bishop LaRocque learned there were two other possible victims, he became visibly upset. Staff Sergeant Brunet told the Bishop, without revealing names, that two people (C-3 and C-56) had disclosed that they also had been sexually molested by Father MacDonald when they were teenagers. Bishop LaRocque said that he had been led to believe by the lawyers involved in the negotiations that the police had not found other evidence to corroborate the

allegations of abuse by David Silmser. Bishop LaRocque said he would meet with Father MacDonald that evening.

Bishop LaRocque called Chief Shaver later that evening. He said he felt betrayed. According to Claude Shaver, Bishop LaRocque stated that Father Charles MacDonald had admitted the assault, but then abruptly said it wasn't an assault but rather an isolated homosexual relationship. The Bishop told Chief Shaver that Father MacDonald would be removed from the parish and sent to a treatment centre for priests for an assessment. The Bishop apologized to the Cornwall Chief of Police. Inscribed in Chief Shaver's notes of the call is: "Charlie admits—will go treatment special place—study 1 week—would rec.—leaves Saturday—no further contact—Bishop sorry."

In October 1993, Chief Shaver did not instruct any of his officers to obtain the settlement papers between the Diocese and David Silmser. The CPS Chief clearly understood that a criminal prosecution could be pursued even if there had been a civil settlement. The Chief also did not ask the Bishop for a list of altar boys to assess whether other young people had been sexually molested by Father MacDonald. Chief Shaver did not pursue the investigation against the priest or Ken Seguin.

Deputy Chief St. Denis sent a confidential note to Staff Sergeant Derochie on October 7, 1993, requesting him to conduct an internal investigation of Constable Perry Dunlop's behaviour in the Silmser matter.

It is clear that the Chief of the Cornwall Police Service and his officers did not clearly understand their duty to report suspected child sexual abuse under the statutory provisions in the *Child and Family Services Act*. They had the mistaken view that the duty to report to the CAS did not extend to extra-familial cases, that is, to cases in which the alleged perpetrator was not a family member. Also, by contrast to the view of Mr. Abell, members of the Cornwall Police Service did not believe they had a duty to report abuse of historical cases, even if children were currently at risk of abuse by the perpetrator.

On the evening of October 14, 1993, Helen Dunlop arrived at Chief Shaver's home. Ms Dunlop was very upset. Ms Dunlop questioned the Chief about why Perry was being subjected to an investigation as he had done something honourable—he had reported allegations of child abuse to the Children's Aid Society.

Chief Shaver contacted Staff Sergeant Derochie that evening after Ms Dunlop had left. He met with the Staff Sergeant and Deputy Chief St. Denis the following day and made it clear that Constable Dunlop was merely to be counselled "for going outside of channels," that is, informally disciplined. In fact, the Chief of Police had drafted a document to that effect on the evening of October 14, 1993. He told Staff Sergeant Derochie to counsel Constable Dunlop as soon as possible. As Staff Sergeant Derochie explained at the Inquiry, counselling is a very low level

of discipline. A notation is placed in the officer's personnel file to the effect that the matter at issue was discussed and that the officer was counselled.

At the October 15 meeting, Staff Sergeant Derochie was instructed to provide a factual overview of the Silmsers investigation—to furnish a chronology of events from the time Mr. Silmsers made the complaint to the CPS in December 1992. In other words, Staff Sergeant Derochie's mandate had been expanded from a review of Constable Dunlop's conduct to a review of the Silmsers investigation by officers at the Cornwall Police Service.

In discussions with Staff Sergeant Brunet and Constable Sebalj on November 4, 1993, Staff Sergeant Derochie learned that David Silmsers had made a decision during the police investigation not to pursue the complaint against Ken Seguin. These officers told Staff Sergeant Derochie that Mr. Silmsers had been in contact with Mr. Seguin and had assured his former probation officer that the criminal allegations against him were not proceeding at that time. Staff Sergeant Derochie understood that a payment of \$32,000 had been offered to Mr. Silmsers from three sources: the Church, Father MacDonald, and an unknown source. The Staff Sergeant thought that perhaps this "mystery money" was from Mr. Ken Seguin. Staff Sergeant Derochie did not do any follow-up regarding this cash offer to Mr. Silmsers; nor, to his knowledge, did any of his fellow officers at the Cornwall Police Service. Staff Sergeant Derochie testified that in hindsight, he thought that before the matter became public in January 1994, the CPS should have asked for the settlement documents in order to assess whether Mr. Silmsers's decision not to proceed with the criminal investigation was voluntary.

Staff Sergeant Derochie also learned on November 4, 1993, that Father MacDonald's lawyer, Malcolm MacDonald, was "rumoured to have a sexual preference for little boys." He was told that the lawyer, the priest, and Ken Seguin were "close friends" who moved "within the same circles." Staff Sergeant Derochie did not follow up on the connection between these three men.

Staff Sergeant Derochie briefed Chief Shaver and Deputy Chief St. Denis on the progress of his inquiries and of the meetings with Richard Abell, Staff Sergeant Brunet, and Constable Sebalj. They discussed Constable Dunlop's conduct in the Silmsers matter. Staff Sergeant Derochie told his superiors that "Dunlop had either exercised incredibly bad judgment or that his actions had been more calculated and sinister than originally thought." It was Staff Sergeant Derochie's opinion that Perry Dunlop could have resolved his concerns regarding the Silmsers allegations through the chain of command.

Staff Sergeant Derochie told the Chief and Deputy Chief that he thought criminal charges should be laid, if possible, against both Father MacDonald and Ken Seguin. Despite the views of Staff Sergeant Derochie (as well as Richard Abell), the Cornwall Police Service decided not to re-investigate the Silmsers matter.

On November 25, 1993, Staff Sergeant Dupuis called Staff Sergeant Brunet's home to advise him that Ken Seguin had been found dead. Staff Sergeant Brunet contacted the OPP the following day and was told that Detective Constables Randy Millar and Chris McDonell were investigating the Seguin death.

In early January 1994, Acting Chief Carl Johnston, who had succeeded Chief Shaver, asked Staff Sergeant Derochie to submit his report of the CPS investigation of Constable Dunlop. The report was submitted January 8, 1994. Staff Sergeant Derochie came to several conclusions in his review of the CPS investigation of the Silmser complaint. There was clearly a lack of proper documentation in this case. No reports were added to OMPPAC during the investigation. As the Staff Sergeant said, senior officers and management "lost track" of this "high profile investigation." His concern was that if the Chief or Deputy Chief had wanted to monitor this case, "there was only an incident created, no reports filed, no people appended to the system."

Constable Sebalj's supervisors did not realize that "she was not filing reports ... [T]he Deputy Chief and the Chief, who were both aware that it was a high profile investigation, to my ... knowledge, never did make any ... inquiries about it, they just moved onto other things. It appears that this thing ... slips between the cracks."

The complainant had clearly requested a male officer. David Silmser did not feel comfortable discussing the details of his sexual abuse with Constable Heidi Sebalj. In Staff Sergeant Derochie's opinion, the investigation could have been reassigned to Sergeant Lortie, an experienced senior police officer who was male.

Staff Sergeant Derochie also thought that the allegations of abuse by Ken Seguin should have been investigated. After his review of the Silmser case, it was obvious to Staff Sergeant Derochie that historical sexual assault investigations at the CPS were characterized by delay and did not receive the attention given by officers to other criminal investigations.

After carefully examining the evidence of the police investigation of the David Silmser complaint, it is my conclusion that the Cornwall Police Service failed to have in place and enforce existing practices and procedures that would have ensured that the investigation into the allegations of historical sexual abuse by Mr. Silmser was conducted in a timely manner and was assigned high priority. In my view, the CPS unreasonably delayed the investigation and failed to ensure that there were appropriate resources for the investigation of the allegations of historical sexual abuse. It is also evident that the CPS failed to enforce practices and procedures that would have ensured that notes and records were properly kept and stored, and that they were retrievable. It also failed to properly supervise

investigators such as Constable Sebalj during the investigation into the allegations by Mr. Silmsers of sexual abuse by Father MacDonald and Ken Seguin. The CPS also failed to ensure that the complainant was offered support and kept apprised of the status of the investigation. Moreover, it failed to institute proper practices and develop protocols to ensure that there was effective cooperation with other public institutions such as the Children's Aid Society.

It is also my view that Staff Sergeant Brunet failed to properly supervise Constable Sebalj during the investigation of the Silmsers allegations of sexual abuse against Father Charles MacDonald and Ken Seguin. As supervisor, he ought to have ensured that allegations of historical sexual abuse were assigned high priority and were conducted in a timely manner. He also failed to assign an experienced male investigator to the case, as had been requested by the complainant, Mr. Silmsers. Nor did Staff Sergeant Brunet take adequate measures to ensure that an investigation was conducted into allegations against Cornwall probation and parole officer Ken Seguin. He also failed to cause an investigation to be conducted into the legality of the purported settlement between David Silmsers and the Diocese of Alexandria-Cornwall in the fall of 1993. Moreover, Staff Sergeant Brunet ought to have taken measures to ensure that notes and records were properly kept and stored, and that they were retrievable. He also failed to ensure that complainants making allegations of historical sexual abuse were dealt with appropriately, offered support, and kept apprised of the status of the investigation into their complaints.

It is also clear from the review of the evidence that Constable Heidi Sebalj failed to conduct a thorough, adequate, and timely investigation into allegations of sexual abuse made against Father Charles MacDonald and Ken Seguin by David Silmsers. She failed to keep proper notes and records of her investigation. Constable Sebalj failed to update OMPPAC in a timely manner with respect to her investigation and contact with David Silmsers. Constable Sebalj did not report to the Children's Aid Society that there might be children in need of protection as a result of the allegations made against Father Charles MacDonald and Ken Seguin by David Silmsers. She also did not properly brief her supervisors on the progress of the investigation. Moreover, Constable Sebalj failed to conduct a thorough, adequate, and timely investigation into the legality of the purported settlement between David Silmsers and the Diocese of Alexandria-Cornwall in the fall of the 1993. In addition, she did not take appropriate steps to ensure that Mr. Silmsers's refusal to proceed with his complaints were made free from coercion, duress, or inducement. And very importantly, Constable Sebalj failed to offer the victim support and to keep Mr. Silmsers informed about the investigation.

Cornwall Chief of Police Claude Shaver and Deputy Chief Joseph St. Denis did not take measures to ensure that policies, practices, and procedures were in place and/or enforced to ensure that the investigation into allegations of historical sexual abuse by Mr. Silmsers were assigned priority and conducted in a timely manner. They failed to ensure that a comprehensive investigation was conducted into allegations of historical sexual abuse made by David Silmsers in December 1992 against Cornwall probation and parole officer Ken Seguin and Father Charles MacDonald. In addition, Chief Shaver failed to have in place and enforce policies, practices, and procedures that would have ensured that investigators and other members of the Cornwall Police Service were properly supervised in the conduct of their investigations of sexual abuse of young people. Chief Shaver also failed to institute proper practices or develop protocols to ensure that there was effective cooperation with other public institutions, such as the Children's Aid Society. I also find that Chief Shaver, by not instructing his officers to obtain and examine the settlement documents, failed to investigate or cause an investigation to be conducted into the legality of the purported settlement between David Silmsers, the Diocese of Alexandria-Cornwall, and Father Charles MacDonald in fall 1993.

With respect to Deputy Chief Joseph St. Denis, he failed to ensure that investigators and other members of the police force were properly trained in the conduct of investigations into allegations of historical sexual abuse. Moreover, he did not enforce practices and procedures that would have ensured that notes and records were properly kept and stored, and that they were retrievable. Deputy Chief St. Denis also failed to develop policies or enforce practices that would have ensured that complainants making allegations of historical sexual abuse were dealt with appropriately, offered support, and kept apprised of the status of the investigation. He also failed to develop practices and/or protocols to ensure there was effective cooperation with other public institutions such as the Children's Aid Society. Furthermore, Deputy Chief St. Denis did not take measures to ensure that the Officer in Charge of the Criminal Investigation Bureau assigned an experienced male investigator, as requested by the complainant, to the David Silmsers case. He also failed to supervise the Officer in Charge of the Criminal Investigation Bureau with respect to the allegations of historical sexual abuse made by David Silmsers in December 1992.

On January 6, 1994, David Silmsers's statement to the CPS regarding his allegations of child sexual abuse appeared in the media. The story was aired on CJOH-TV by Charlie Greenwell, and newspaper reports appeared in the *Standard-Freeholder*, the *Ottawa Citizen*, and the *Ottawa Sun*.

Ottawa Police Service Asked to Investigate Allegations of Cover-up by the CPS in the Silmsers Matter

In January 1994, Acting Chief Carl Johnston contacted the Ottawa Police Service and spoke about the prospect of having an outside police force review an investigation conducted by the Cornwall Police Service. Acting Chief Johnston asked the Ottawa Police Service: (1) to conduct a review of the investigation carried out by members of the Cornwall Police Service into allegations of sexual assault made by David Silmsers and to determine if the investigation was efficient; and (2) to assess whether members of the Cornwall Police Service downplayed or concealed the allegations.

The Deputy Chief of the Ottawa Police Service asked Superintendent Brian Skinner to conduct this review of the Silmsers investigation. It was decided that Staff Sergeant William (Bill) Blake, who was in the Criminal Intelligence Section of the Ottawa Police Service, would work with Superintendent Skinner on the review of the CPS investigation.

The Ottawa police officers met with several members of the Cornwall Police Service, including Constable Sebalj, Staff Sergeant Brunet, Staff Inspector Stuart McDonald, Sergeant Lortie, and Deputy Chief St. Denis. They also interviewed Crown Attorney Murray MacDonald and Richard Abell.

A number of problems emerged from the beginning of their review of the investigation. The officers learned from their interviews that Sergeant Nakic had received Mr. Silmsers's complaint on December 9, 1992, but no investigative activity took place until January 28, 1993, more than one and a half months after the complaint was received from Mr. Silmsers.

Another serious problem was that the only documented record of the complaint was Sergeant Nakic's internal correspondence: "No report of any kind had been generated, no formal record of the investigative resources assigned to the complaint existed." As Superintendent Skinner states in his Report, "There are no records to enable anyone, within or without the Cornwall Police Service, to follow the progress of the investigation through its early stages." A further problem was that Sergeant Lortie, the original investigator, reported to the Chief of Police for the Silmsers matter. This was a "questionable" decision as it "effectively removed Staff Sergeant BRUNET, the officer in charge of CIB, and Deputy Chief ST. DENIS, the officer having overall responsibility for CIB, from the management structure" for this investigation.

It was clear from the inception of this investigation that the complainant was uncomfortable speaking with a female police officer about the sexual acts. The Ottawa Police Superintendent also emphasized the importance of establishing

a good rapport with the complainant and creating an atmosphere in which the victim feels comfortable disclosing as much information as possible. Another serious problem identified by the Ottawa police officers was that Constable Sebalj lacked experience.

On January 13, 1993, the Cornwall police officers knew that David Silmsers had approached the Church with allegations of sexual abuse. This was confirmed on February 16, 1993, when Mr. Silmsers informed Constable Sebalj that Monsignor McDougald had called him and had discussed a civil settlement. Constable Sebalj was also aware from David Silmsers that he had told Ken Seguin that he was laying charges solely against the priest and that he did not want to proceed at this time with the investigation of the probation officer despite repeated sexual assaults by him. This information, according to Superintendent Skinner and Staff Sergeant Blake, “should have added a certain urgency to the investigation.” But “apparently,” it “did not.” As Superintendent Skinner said, because there was the “possibility at least that two people who were committing these types of offences were within the community ... the situation should be looked at as quickly as possible.”

Moreover, Father Charles MacDonald’s lawyer contacted Constable Sebalj on February 25, 1993, and indicated that his client was willing to undergo a polygraph examination. Superintendent Skinner and Staff Sergeant Blake thought the polygraph “should have been pursued.”

Constable Sebalj obtained statements from altar boys and members of church musical groups, two of whom clearly “recalled incidents of homosexual behaviour” by the priest. According to the Constable’s notes, she had a telephone call with a man who had been an altar boy in his youth. This man indicated to Constable Sebalj that the investigation was “scary stuff and very close to home,” and that he was not comfortable discussing it on the phone but wanted to meet the Cornwall officer in person. When Constable Sebalj told this potential witness she was unable to meet with him, his response was that nothing untoward had occurred. Superintendent Skinner and Staff Sergeant Blake stated in their Report that Constable Sebalj “should have arranged to see him in person.”

In the January 24, 1994, Report submitted by Superintendent Skinner and Staff Sergeant Blake to Acting Chief Johnston, the officers conclude, “The investigation into the allegations made to the Cornwall Police Service by David SILMSER was inept and ineffective. The responsibility for this rests with the Cornwall Police Service. The problems are systemic and, during the time of my review, still existed.”

Several problems were highlighted in the conclusion of the Report. First, CPS officers with inadequate experience and training were involved in the Silmsers investigation. In particular, Constable Sebalj did not have the qualifications to assume responsibility for such a complex file.

Second, there was a serious problem in the CPS with respect to record keeping in the Silmsers investigation. As Superintendent Skinner said, there was “nothing to track the progress of the investigation” and if Constable Sebalj had become the victim of a tragedy, no officer of the CPS would have had access to information to this case. When the CPS had its first formal interview with David Silmsers on January 28, 1993, no written report was generated. There should have been a written record of the progress of the investigation on OMPPAC or by other means so that other members of the police force could review the file. As mentioned, three CPS officers took notes, which the Ottawa officers also considered a problem as discrepancies could arise. Superintendent Skinner agreed that the first interview with Mr. Silmsers was a “very important” stage of the investigative process. If the matter went to trial, this was not the ideal way to start.

Constable Sebalj was away from the office for a few weeks in May and June 1993 to attend two courses at the Ontario Police College. During that time, no arrangements seemed to be made for another officer at the CPS to continue this investigation. The Ottawa Superintendent thought the CPS should have postponed Constable Sebalj’s courses.

Constable Sebalj had no notes of this investigation from April 29 until August 23, 1993, at which time she received a call from Father MacDonald’s lawyer. On August 24, 1993, David Silmsers contacted Constable Sebalj to find out about the progress of the investigation. She told Mr. Silmsers that she was awaiting a meeting with a Crown attorney from out of town to discuss the case. When Staff Sergeant Brunet asked her for a progress report on August 24, Constable Sebalj made the same comment. Staff Sergeant Brunet instructed Constable Sebalj to conclude this investigation as soon as possible.

Superintendent Skinner testified that although “inept” and “ineffective” are “strong words,” they appropriately describe the investigation of the Silmsers complaint by the CPS. Superintendent Skinner summed up the Silmsers investigation as a “systemic breakdown of the Cornwall Police Service.” He referred to the delays after the complaint was received, the lack of attention and sense of urgency, the failure to interview possibly important witnesses, the lack of follow-up regarding the polygraph test, poor documentation of the investigation, and inadequate supervision. “It just has too many holes in it to be an effective investigation,” said Superintendent Skinner.

There was clearly inadequate supervision of Constable Sebalj. Superintendent Skinner was critical of the commissioned police officers in the Cornwall Police Service: “I could see no clear direction or supervision or management skills from any of them.”

Problems clearly existed between Chief Shaver and Deputy St. Denis during the course of the investigation. There was inadequate communication, and

Deputy St. Denis stated that the Chief had failed to keep him informed of the Silmser investigation.

Superintendent Skinner stressed that it is “critical that there is ongoing and constant exchange of information between” the Chief and the Deputy Chief: “[T]hey’re running the force.” They are responsible for ensuring that proper resources are appropriated and that good communications exist on the force. In Superintendent Skinner’s view, there “appeared to be a real lack of communication within the Cornwall Police Service.” Superintendent Skinner also stated that middle management did not supervise the investigation.

Superintendent Skinner and Staff Sergeant Blake concluded that there was no cover-up of the matter by the Cornwall Police Service. Rather, the Silmser investigation was characterized by a lack of adequate resources and “a lack of managerial direction and systemic support.”

The Skinner Report recommended that “an outside police agency be asked to conduct a complete investigation into the events and allegations which resulted from this particular complaint.” In my view, Superintendent Skinner and Staff Sergeant Blake of the Ottawa Police Service conducted a good review of the Cornwall Police Service investigation of the Silmser allegations of sexual assault. I agree with many of their conclusions regarding the problems involved in the investigation.

News Releases by Cornwall Police Services Board Regarding Skinner Report: Transparency?

After David Silmser’s statement was leaked to the press on January 6, 1994, the Cornwall Police Services Board decided to issue a news release. Mr. Leo Courville, Chair of the Board, who signed and is identified as the “originator” of the January 11, 1994, release, stated that “the impetus behind the press release” was damage control.

Ottawa Police Superintendent Skinner questioned statements in the press release that suggested delays in the Silmser investigation were not a problem because the complainant had told the CPS to take the time necessary to complete the investigation. Superintendent Skinner stressed that the fact that the complainant did not express concern about long delays in the investigation was no justification for the length of time it took for the Cornwall police to address the Silmser complaint. Not only did this reasoning not make sense to Superintendent Skinner, but he would in fact “be suspicious of getting information like that from the complainant.”

Mr. Courville stated that the February 2, 1994, press release was also designed to provide the public with a transparent and thorough understanding of the CPS

investigation of the Silmser allegations of sexual assault. But it is clear that Leo Courville failed to include many of the essential findings in the Skinner Report. The conclusion of Superintendent Skinner and Staff Sergeant Blake was that the Silmser investigation was “inept and ineffective.” Lead investigator Constable Sebalj was found to be inexperienced and, in their opinion, should not have been assigned the responsibility for this case. Moreover, the Ottawa officers thought that the Crown attorney should have removed himself from the file because of his declared conflict of interest. None of this information, acknowledged Mr. Courville, is reflected in the press release. The press release states:

The members of the investigative team have indicated in their report to the A/Chief of Police, that they are satisfied that there was no attempt by any member of the Cornwall Police Service to “cover-up” the situation. In addition, the report makes it clear that although the investigative team saw substantial evidence of excellent police work being done by accomplished police officers, there was a noticeable lack of Senior Management direction and systemic support throughout the course of the investigation. The report noted that this criticism was not intended as an indictment of the Police Service and its members.

Superintendent Skinner testified that in his opinion, some statements in the press release were out of context and very little of the substance of his Report to the Cornwall Police Service could be found in the press release signed by Mr. Courville.

As a result of this press release, journalists, the public, and other members of the media did not have an accurate understanding of the findings in the Skinner Report with respect to the Cornwall police investigation of the Silmser matter. Despite Mr. Courville’s view that the press releases ought to be “as accurate as possible” and that the Cornwall Police Services Board and Cornwall Police Service were trying to be “as transparent as possible,” he failed to provide accurate and appropriate information to the community through the media. This, in my opinion, only served to fuel the growing distrust and discord in the City of Cornwall. The press release should have stated that the Ottawa police had concluded that although there was no cover-up, the CPS investigation was ineffective and incompetent, and that they recommended that another force re-investigate.

The problem that arose was that as a result of the press report and media articles, people such as former judge and MPP Garry Guzzo and members of the public believed that the Skinner Report did not find any problems with the CPS investigation of the Silmser complaint. This misinformation fuelled one of many

conspiracy theories in this city. Unfortunately, neither Mr. Courville nor members of the Cornwall Police Services Board took measures to rectify this misinformation in the press releases regarding the content of the Skinner Report. Mr. Courville said at the hearings that “in hindsight, we could have been perhaps a little bit more clear, more specific. That didn’t happen.” The Chair of the Cornwall Police Services Board further stated: “With regard to the press releases ... to the degree that the evidence shows that they may have been deficient or may not have covered all of the points put forward in the—particularly in the Skinner Report, I accept that.”

It is my view that Leo Courville failed to provide appropriate and accurate information through the media regarding the historical sexual assault investigation conducted by the Cornwall Police Service. Moreover, Mr. Courville failed to take measures to correct the misinformation to ensure that the people of Cornwall received accurate information on the findings in the Skinner Report.

Problems With Morale at the CPS: Internal Dissension

It was evident that there were problems with morale at the Cornwall Police Service for many years. As early as 1978, the Ontario Police Commission, in its audit of the CPS, noted a morale problem among younger officers.

Although morale improved in the mid-1980s, the problems resurfaced in the late 1980s. In an inspection of the CPS conducted in April 1989, inspectors again commented that “morale was found to be low.” The Ontario Police Commission Report stated that “[a] major cause of this problem is due to the lack of communication throughout the entire organization.” Claude Shaver was then the Chief of Police, and his Deputy Chief was Joseph St. Denis. In his testimony at the Inquiry, Staff Sergeant Derochie agreed that there were serious communication problems between the police chief, senior police officers, and lower rank officers at that time. Deputy Chief St. Denis testified that when he joined the CPS in 1987, he had discerned tension in the police force. He noticed that several members of the force were off on stress leave.

In 1990, the Morale Report was released. It was commissioned by the Cornwall Police Association. The stated objective of the Morale Report was a “collective attempt by police brothers and police sisters to identify the factors that are responsible for this disarray” and to rectify the situation. The Report stressed that there was discontent with management in the organization such as the Chief of Police and the Deputy Chief. Problems included lack of leadership, poor deployment of manpower and resources, and lack of communication.

The Report stated that it was paramount that morale be the force’s “utmost priority.” It said that there was a lack of direction at the Cornwall Police Service

as it entered the 1990s, and it stressed that “wholesale change is needed.” Issue was taken with respect to officers who were given transfers not necessarily based on merit. The Report concluded that the “Chief and Deputy Chief must accept responsibility for the current situation” because “[a]s the head of the Police Force, they are ultimately responsible for the morale of the department. Mistakes that they have made in the past have directly contributed to the current dilemma.”

At about the same time that the Morale Report was released, staff sergeants in the Cornwall Police Service presented a report of their concerns to management on March 26, 1990. In their view, the CPS was “seriously mismanaged,” for which the Chief of Police was responsible. In the opinion of the staff sergeants, the “Chief’s actions have resulted in the Office of the Chief of Police losing all credibility with the men and women of the Force, the Police Commission, and the community.” The decision making of the police chief was impulsive and occurred without consultation. They also stated that Claude Shaver had an “alarming lack of knowledge concerning the day to day operation” of the force and that he sought every opportunity to be absent from his office, particularly during critical times.

The staff sergeants recommended that the Chief of Police tender his resignation, or alternatively, that the Cornwall Police Commission ask the Ontario Policing Services Division of the Ministry of the Solicitor General to conduct an inquiry into the management of the CPS.

The Chair of the Board of Commissioners of Police responded to the reports of the staff sergeants and senior officers, as well as to the Morale Report, on April 12, 1990. The Board confirmed that it fully supported the Chief of Police and disagreed that the force was seriously mismanaged. The Board supported a strategic plan workshop to develop the direction of the police force for the next five years. The strategic planning process ultimately broke down.

Problems with morale continued. In November 1990, an inspection was conducted by the Ontario Police Forces Inspection Program. The inspectors noted that the promotional process did not have the confidence of the rank and file, which was a “contributory factor to the low level of morale within the Service.” The inspectors observed that “dissension” was present at “virtually every level of the Cornwall Police Service” from the rank of constable to the Cornwall Police Services Board. They discerned friction internally within the organization as well as externally with the Police Services Board.

In the summer of 1993, an inspection was conducted by the Ontario Policing Services Division of the Ministry of the Solicitor General. This inspection had been requested by the Chair of the Cornwall Police Services Board, who had “serious concerns about management, the relationship among stakeholders, and morale.”

Deputy Chief St. Denis testified that there had been a big spike in sick leave among officers from 1992 to 1995. He was of the view that low morale can lead to more sick leaves among officers, and in turn sick leave contributes to low morale.

The Cornwall Police Services Board

Tensions on the Cornwall Police Services Board had an impact on the functioning of the Board. Strained relationships existed not only between members of the Board but also between the Chief of Police and Board members. This had an adverse effect on the ability of the Board to discharge its responsibilities as well as on the morale of the police force.

Understaffing was a recurring theme in the testimony of members of the Cornwall Police Service. Reorganizing the staff and their respective duties could have increased efficiency at the CPS. The lack of a sufficient number of officers in the CIB in the 1990s had a particularly negative impact on sexual assault investigations.

In my opinion, the Cornwall Police Services Board failed to establish policies or give direction to the Chief of the Cornwall Police Service that would have ensured that investigations into allegations of historical sexual abuse were assigned high priority and were conducted in a timely manner. It is clear that the investigation of other offences was prioritized over historical sexual assault cases. The Youth Bureau required additional staff and there was a backlog of sexual assault investigations.

It is my recommendation that the Cornwall Police Services Board take measures to ensure that such offences are given priority. Moreover, the Board should ensure that the force has the necessary resources, such as the requisite number of officers to conduct such investigations of sexual assault, and in particular historical sexual assault cases, in a timely manner.

Deputy Chief Aikman acknowledged in his testimony that there were still no CPS documents that specifically set out the manner in which historical child sexual abuse investigations should be conducted. In my opinion, a detailed protocol should be developed on historical sexual assault investigations, to guide officers who are involved in these cases.

The lack of guidance on historical sexual assault investigations has left many officers uncertain as to the steps that they ought to take in such cases. For example, a number of Cornwall police officers testified that they did not know the circumstances under which they are required to report allegations of historical child sexual abuse to the CAS. This is a significant problem. Police officers should

have had a clear understanding of the statutory obligation to report a reasonable suspicion of child abuse to the CAS. It is necessary to ensure that children at risk of abuse are protected. When Mr. Courville was asked whether the Board had been approached with respect to providing guidance or developing a policy to address the uncertainty regarding whether officers are required to disclose historical sexual abuse to the CAS, he responded that the Board had discussed the issue but that no procedure or policy had been developed.

Through its mandate to determine objectives and priorities of the police service in the municipality and through the budget, the Cornwall Police Services Board has an impact on the training of officers. Despite the availability of these courses, many Cornwall Police Service officers, even those who had worked on sexual assault investigations, had not received training in the investigation of sexual assault. The investigations examined demonstrate that many police officers assigned to such investigations also lacked training on sexual assault and historical sexual assault.

Experts in the field of child sexual abuse, police officers, individuals who work with the CAS, and the OPC staff discussed in their evidence the importance of joint training. In my view, it is of great importance that joint training of the police with the Children's Aid Society and other agencies involved in sexual abuse be reintroduced. Moreover, training for police investigation of child sexual assaults, including training on historical child abuse, should be mandatory for all police officers as part of their basic training. It is also my recommendation that officers involved in sexual abuse investigations be required to take refresher courses on an ongoing basis.

Another problem at the Cornwall Police Services Board that clearly had an impact on its operation was the internal dissension among Board members.

During Claude Shaver's tenure as Chief of Police of the Cornwall Police Service, there was clearly tension between him and the Cornwall Police Services Board. It was evident from the inspection reports as well as the testimony that the strained relationship between the police chief and the Board had an impact on the functioning of the CPS as well as the morale of the police officers.

It is also apparent from my review of the investigations of cases of allegations of historical sexual abuse that the Cornwall Police Services Board failed to establish policies and failed to give direction to the Chief of Police regarding conflicts of interest. It was incumbent on the Board to develop such policies to ensure that conflicts of interest were identified and appropriately managed within the context of these investigations. As discussed, the issue arose in the context of investigations such as Earl Landry Jr., the son of former police chief Earl Landry Sr. Chief Shaver and officers working on the Landry Jr. investigation should

have had a conflict of interest policy that delineated inappropriate conduct with regard to perceived and actual conflicts of interest. The policy should have also stipulated that police officers who were members of the Board of the Children's Aid Society could not be involved in CPS investigations involving that agency.

It is evident that outside police forces should have conducted reviews of CPS investigations of historical sexual assault in which there were allegations of improprieties or problems. This should also have been addressed in the conflict of interest policy. It is my recommendation that the Cornwall Police Services Board develop a conflict of interest policy in the context of investigations relating to allegations of sexual assault, including historical sexual abuse, to ensure that such conflicts are identified and appropriately managed.

In my view, the Board should have developed a conflict of interest policy that would have allowed them to address issues of perceived and actual conflict of interest by Board members.

It is also my conclusion from a review of the evidence that the Cornwall Police Services Board failed to secure and make available appropriate resources for the adequate provision of policing services in the investigation of cases of historical sexual assault. The Board also failed to ensure that recommendations made by the Ontario Civilian Commission on Police Services and the Ministry of the Solicitor General in the 1980s and 1990s were implemented in a timely manner, or at all. Moreover, the Board failed to determine objectives and priorities with respect to police services in the municipality, and failed to pursue in a timely manner the strategic planning process recommended by the Ministry of the Solicitor General. Furthermore, the Board failed to establish policies and give directions to the Chief of Police to ensure that (1) investigations into allegations of historical sexual abuse were assigned high priority and were conducted in a timely manner; and (2) conflicts of interest were identified and appropriately managed within the context of investigations relating to allegations of historical sexual abuse.

Investigations of Richard Hickerson and James Lewis

Mr. Hickerson obtained a position with the federal government at Canada Manpower as an employment counsellor. He was frequently asked by probation officers in the Cornwall Probation Office to assist individuals on probation or parole in finding employment.

Mr. Hickerson became a volunteer assistant in Cornwall with the orchestra at the Académie de Sainte-Croix, École Musica, in the Holy Cross Convent, which was part of the separate school system. C-11 played the violin in this orchestra. C-11 testified that he and other students came to Mr. Hickerson's home for extra

music lessons and that Mr. Hickerson soon became his mentor. C-11 alleged that Mr. Hickerson sexually abused him repeatedly for a number of years, beginning when he was about twelve or thirteen years old.

Keith Ouellette was a probationer under the supervision of Cornwall probation officer Ken Seguin. Mr. Ouellette testified that Mr. Seguin required him to see Richard Hickerson at Canada Manpower to obtain a job. Mr. Ouellette stated that Mr. Hickerson sexually molested him over several years.

In a 1998 statement to the OPP, Robert Sheets said he met Mr. Hickerson when he was about fourteen years old. Mr. Sheets said it was probably after the second time he went to see Mr. Hickerson at Canada Manpower that the employment counsellor asked him to go to a movie, and he agreed. Mr. Sheets alleged that Mr. Hickerson sexually molested him.

As part of Project Truth, the OPP in 1997 and 1998 investigated allegations of sexual abuse of young males by a group of influential citizens in Cornwall. OPP officers took statements from C-11, Keith Ouellette, and Robert Sheets regarding their allegations of sexual abuse by Richard Hickerson. On June 11, 1998, the OPP interviewed Mr. Hickerson regarding these allegations of abuse. Mr. Hickerson admitted that he had engaged in sexual improprieties with these three men.

Richard Hickerson committed suicide on June 19, 1998, eight days after he was questioned by the OPP.

Jamie Marsolais, who also alleged that he had been sexually abused by Richard Hickerson, did not report the abuse until after Mr. Hickerson's death. Mr. Marsolais stated that Mr. Hickerson abused him repeatedly from the time he was about nine years old until he was eleven. Mr. Marsolais also alleged that he had been sexually abused several times by James Lewis, a man who lived at his grandparents' boarding home. He stated that the abuse also began when he was nine years old.

Richard Hickerson and James Lewis were friends. Mr. Hickerson would come to the boarding house of Mr. Marsolais' grandparents to find jobs for the boarders. Mr. Hickerson and Mr. Lewis became involved in a sexual relationship.

The CPS became involved with the Richard Hickerson case on June 19, 1998, the date of his death. Constable Jeff Carroll was responsible for investigating the possible suicide of Mr. Hickerson. Constable Carroll saw numerous pornographic, mainly homosexual, magazines, as well as videos in Mr. Hickerson's home. A video camera was set up near his bed.

On June 20, 1998, James Lewis permitted Constables Carroll and White to enter his home. He gave the officers three boxes of floppy disks and some loose diskettes, some of which contained child pornography. Mr. Lewis also gave the CPS officers a binder of papers containing Internet addresses that appeared to be "sexually related," according to Constable Carroll's notes, as well as about twenty

magazines containing child pornography and books entitled *Children Who Seduce Men* and *Pederasty: Sex Between Men and Boys*. Mr. Lewis also gave the officers a photo album with Polaroid photographs. He showed the police officers that photos missing from the album were cut up and in his garbage can. Mr. Lewis stated that Mr. Hickerson gave him the photos about a week before he committed suicide. He explained that he cut up the photos because he did not want them to cause Mr. Hickerson to get into further trouble.

The officers found a large quantity of homosexual pornographic material in Mr. Hickerson's home, including eighty-five videotapes, seven of which were homemade videos featuring Mr. Hickerson and Mr. Lewis engaging in sex. The balance consisted of commercially made homosexual pornographic videos. Constable Carroll also found some notes in the home that suggested Mr. Hickerson had been writing an essay entitled "When a Man of God Has Sex With a Boy."

Sergeant Lalonde found a plastic grocery bag full of cut-up photographs hanging on the doorknob of Mr. Hickerson's bedroom door and informed Constable Carroll of this discovery. Constable Carroll testified that piecing together all of the photographs was "a two- or three-day-long jigsaw puzzle project" and that working with the photographs and viewing all of the seized material took "several days."

The reassembled photographs depicted young boys in sexual positions. Constable Carroll estimated that the ages of the boys in the photographs ranged from seven to eighteen. The CPS officer considered some of the photographs to be child pornography.

On July 10, 1998, Constable Carroll met with James Lewis and told him he would be charged with possession of child pornography. Although during their interview on July 10, 1998, Mr. Lewis mentioned to Constable Carroll that children are sexual beings and are capable of consenting to sexual acts, the officer did not ask Mr. Lewis if he was having sex with children. Had the CPS taken further steps to investigate James Lewis in 1998, it would probably have learned that Mr. Lewis had sexually abused young people such as Jamie Marsolais. Moreover, there should have been more information sharing between the investigators at the CPS and the OPP concerning Mr. Hickerson and Mr. Lewis.

In 2005, Mr. Lewis was charged by the CPS for abusing Jamie Marsolais. He subsequently pleaded guilty to indecent assault. In addition, Mr. Lewis was arrested in 2004 and pleaded guilty in 2005 to possession of child pornography. When the police searched his home, they found toys, children's music, and children's videos.

No consideration was given by the CPS to the possibility of transferring the photographs to the OPP for the Project Truth investigation or to retaining them for future investigations to be conducted by either the Cornwall police or another

police force. It is clear from the evidence that the Cornwall Police Service failed to cause an investigation to be conducted regarding the photographs of young boys found in the home of Richard Hickerson in 1998.

Investigation of Allegations by Marc Latour of Sexual Abuse by His Elementary School Teacher

On June 19, 2000, forty-one-year-old Marc Latour called the OPP Project Truth hotline. Mr. Latour reported that he had been assaulted when he was in grade 3 by Gilf Greggain, a teacher at St. Peter's Elementary School. He was eight or nine years old at the time.

Constable Carroll interviewed Marc Latour at the Cornwall police station. He told Constable Carroll that the abuse began when he was placed in detention at the end of the school day. The abuse was initially physical and gradually progressed to sexual abuse.

It is clear from the evidence that Staff Sergeant Derochie and the Cornwall Police Service could have done more to properly supervise Sergeant Carroll during the investigation into allegations of sexual abuse made by Marc Latour against Gilf Greggain. It is also evident that Sergeant Carroll and the Cornwall Police Service failed to conduct a thorough and timely investigation into allegations of historical sexual abuse made against Gilf Greggain by Marc Latour.

Potential witnesses were not interviewed, there were lengthy delays in the investigation, and the Cornwall police did not follow up on information obtained from people who were interviewed. As Staff Sergeant Derochie acknowledged, this case of historical sexual abuse did not receive the same attention as other types of criminal cases at the CPS. This was particularly serious as children in the Cornwall community may have been at risk of sexual abuse by this alleged perpetrator. Marc Latour had told the CPS that he saw Mr. Greggain accompanying children with disabilities. This was another investigation of historical child sexual abuse in which there were excessive delays, lack of follow-up with potential witnesses, and failure to give the case and the alleged victim of child sexual abuse the attention and support they warranted.

Institutional Response of the Ontario Provincial Police

The Ontario Provincial Police (OPP) was founded in 1909. Headquartered in Orillia, the OPP is responsible for policing services in 400 communities across Ontario, including those outside the City of Cornwall in the United Counties of Stormont, Dundas & Glengarry. It leads many joint-force multi-jurisdictional task forces, and is responsible for province-wide systems such as the Ontario

Sex Offender Registry and the Provincial Violent Crime Linkage Analysis System.

The OPP provides training primarily through its internal training facility, established in the 1920s, and through the Ontario Police College in Aylmer, established in the 1960s.

The Institute for the Prevention of Child Abuse (IPCA) took the lead in delivering joint Children's Aid Society/police outreach training, and the Ontario Police College also participated in this training. The IPCA also developed more specialized courses, such as those involving the investigation and assessment of sexual abuse of very young children or case management of complex investigations. The joint training started in the early 1980s and continued until 1994. In 1995, the Ontario Association of Children's Aid Societies took over this training, and in 1996, there was a joint training protocol between the association and the Ontario Police College to deliver this program. In 2003, joint training was suspended.

Police, child welfare organizations, and experts point to the end of joint training between child welfare agencies and police forces as a great loss. Since these organizations need to work in partnership to help children, the interaction afforded by training builds better day-to-day relationships and also allows organizations to understand and benefit from the perspectives and expertise offered by other organizations. Such training should be reinstituted immediately and include specific training on responding to historical allegations of abuse. For some aspects, consideration should be given to including other Justice partners, such as Crown counsel or those working in hospitals in specialized assault units. Joint training might also support more standardization or the development of "best practices" protocols between police and Children's Aid Societies.

Starting in 1988, Sexual Assault Coordinators would offer resources to officers in the OPP districts. As of September 1994, there was a Regional Abuse Issues Coordinator in District 11, which includes Stormont, Dundas & Glengarry, as well as Prescott-Russell and Ottawa-Carleton.

One of the tasks of the Regional Abuse Issues Coordinator has been to compile a directory of services for victims. In 2001, Police Orders formalized the positions and duties of Regional Abuse Issues Coordinator and Provincial Abuse Issues Coordinator.

There are a number of relevant protocols between the OPP and local organizations and institutions. It is important to establish protocols and keep them current, reviewing them at least every three years. Even discussion of protocols is an opportunity to build relationships and identify emerging issues and therefore has value. John Liston of the Children's Aid Society (CAS) of London and Middlesex, in expert testimony, explained that it was an opportunity to bring different but equally valuable work cultures together and to forge respectful partnerships. More important, having leaders from various organizations sign protocols

related to abuse of children and sexual assault signals genuine commitment to staff and the public.

This section examines the investigations conducted by the OPP in 1994 at the request of the Cornwall Police Service and during Project Truth, a special project assigned to the OPP in 1997 in response to allegations of historical sexual abuse made in Cornwall and surrounding areas, as well as related investigations. Interactions between the OPP and other institutions, such as the Ministry of the Attorney General, are discussed.

Ken Seguin's Involvement in the Varley Investigation

On January 9, 1992, Andrew MacDonald was fatally shot by his cousin, Travis Varley. On the evening of January 8, 1992, these two young men, accompanied by Bob Varley and Mark Woods, had visited probation officer Ken Seguin at his home in Summerstown. At the time, Mr. Woods was a Ministry of Correctional Services (MCS) client. Mr. Seguin had been assigned to prepare a pre-sentence report for him. Each of the four young men consumed a beer provided by Mr. Seguin. Travis Varley took three additional bottles of beer from Mr. Seguin's fridge as they were leaving. He shot Andrew MacDonald approximately seven hours after the young men had left Mr. Seguin's residence.

Early in the homicide investigation, the OPP became aware of Ken Seguin's involvement in this incident. The OPP did not immediately provide Mr. Seguin's employer with this information.

This investigation provided an early indication of Mr. Seguin's inappropriate conduct with probationers. In the years that followed, a number of former probationers came forward and alleged that Mr. Seguin had sexually abused them. The OPP missed an opportunity to uncover further inappropriate behaviour by Mr. Seguin in relation to his probationers and former probationers.

On January 9, 1992, Detective Inspector Tim Smith was assigned as the case manager in the Andrew MacDonald homicide investigation. Detective Constables Randy Millar and Chris McDonell were assigned as the case investigators. Early in the investigation, the officers learned of Ken Seguin's involvement on the night of the homicide.

On January 15, 1992, Detective Constables Millar and McDonell took a statement from Mr. Seguin. Afterwards, the officers discussed with Mr. Seguin that providing alcohol to these young men was not appropriate. Mr. Seguin reported the incident to his supervisor, Area Manager Emile Robert, on January 16, 1992, but he failed to include any mention of alcohol.

It appears that the OPP took no formal or informal steps at this time to contact Ken Seguin's supervisor to report what they had learned of his conduct on the night in question.

When the matter was resolved through a guilty plea by Travis Varley, Detective Inspector Smith made sure that the information about the young men drinking alcohol was included in the agreed statement of facts so that it would be a matter of public record. On the day of the sentencing, August 26, 1992, Detective Inspector Smith instructed Detective Constable Millar to write a letter to notify the probation supervisor of Mr. Seguin's involvement. On September 3, 1992, Detective Constable Millar sent a letter to Emile Robert summarizing the OPP's information relating to Mr. Seguin's involvement.

The Varley incident was a serious matter. It is unfortunate that the OPP officers' initial efforts to bring this incident to the attention of MCS staff were minimal. Ms Carole Cardinal gained information from Detective Constable McDonnell informally, but it was not until eight months later that the matter was finally raised formally and directly with MCS staff.

Given the serious nature of the incident involved, in hindsight it would have been more appropriate for the letter to be sent by Detective Inspector Tim Smith directly to Mr. Roy Hawkins, the Regional Manager for the Cornwall Probation Office. Had a senior official at MCS, such as Mr. Hawkins, been the point of first contact, the fact that Mr. Seguin provided a misleading version of events could have become readily apparent and led to a more robust response and investigation. This was a missed opportunity to uncover inappropriate behaviour. Should similar circumstances arise in which public servants or officials are engaged in inappropriate activity that comes to the attention of the police, whether criminal in nature or not, police forces should contact the Ministry or Crown agency to alert them of the conduct. Such correspondence should be addressed to a designated senior person in the Ministry or agency. This would increase the likelihood of a timely, objective, and appropriate response and would ensure that no one involved in the occurrence or in regular contact with the impugned employee would be involved in determining the proper response.

Videotapes Found in Ron Leroux's House by the OPP

In early 1993, officers from the OPP Lancaster Detachment seized a number of pornographic videotapes from Ron Leroux's residence in the course of conducting a search for firearms. These tapes, and their possible linkage to Ken Seguin and other alleged perpetrators of child sexual abuse, have been the source of significant commentary and controversy over the past fifteen years. The seizure and subsequent destruction of the tapes has been cited by several individuals, including Mr. Leroux, Constable Perry Dunlop, and Garry Guzzo, as proof of police incompetence or cover-up and conspiracy.

On December 18, 1992, OPP Constable Steve McDougald received a telephone call from C-8 alleging that Mr. Leroux was harassing him. C-8 stated

that Mr. Leroux was perhaps suicidal and that he possessed a number of weapons. C-8 further advised that he was himself in possession of four of Mr. Leroux's weapons. C-8 gave a statement to Constable McDougald the same day and turned over four handguns.

On December 20, 1992, Constables McDougald and Patrick Dussault went to Mr. Leroux's residence, advised him of the complaint, and issued a warning. Mr. Leroux denied that he had engaged in any harassing behaviour and denied that he was suicidal. On January 10, 1993, Mr. Leroux told Constable McDougald that C-8 could have the guns that had been turned over.

On February 10, 1993, Constable McDougald obtained a search warrant to search Ron Leroux's house, garage, and boathouse for the two outstanding firearms. The officers were let in to the house by C-8, who gave them a handgun that he said he had found in the front closet. Detective Constable Millar searched a closet in the upstairs bedroom. From inside the closet, he located a cubbyhole that led to a space underneath the tub in the adjacent bathroom. There, he found a suitcase that had obviously been hidden and was locked with a small padlock. There were two loose videotapes on top of the suitcase. Detective Constable Millar opened the case, and found approximately twenty more videotapes. Constable McDougald testified that some appeared commercially made and some were store-bought blank tapes with labels. The tapes were seized, along with the suitcase.

Staff Sergeant Jim McWade asked Constable McDougald to review the videotapes and advised that sometimes material of a criminal nature was spliced partway into an existing tape. Constable McDougald testified that he told Staff Sergeant McWade he was not comfortable reviewing the tapes. Staff Sergeant McWade suggested that he go through the tapes by pressing play and fast forwarding through parts. Constable McDougald testified that the officers did not maintain a log of the tapes, their length, or the portions that were reviewed. Based on their partial viewing, the OPP determined that nothing of a criminal nature was on the tapes and that they could be returned to Mr. Leroux.

On April 25, 1993, Mr. Leroux was charged with eleven firearms-related criminal offences and released. Malcolm MacDonald represented him on these charges.

Mr. Leroux told Constable McDougald that he had found the tapes in a dumpster at a campground and had taken them because he did not want them to come into the possession of children. According to Constable McDougald, Mr. Leroux was emphatic that he did not want the videotapes back. Constable McDougald explained to Mr. Leroux that if he signed a quit claim on the property report, the tapes would be destroyed.

Mr. Leroux spoke to Ken Seguin, who said that Mr. Leroux was in a lot of trouble because he had hidden the tapes. Mr. Leroux testified that Ken Seguin was

desperate to get the tapes back because they would “destroy ... reputations.” Mr. Leroux testified that he had concocted the story about finding the tapes in the dumpster and advised the officer that he wanted the tapes back.

In his will-state and in the statement he provided to Project Truth officers on December 11, 1998, Constable McDougald stated that he was advised by Staff Sergeant McWade on May 4, 1993, that the detachment caretaker had destroyed all the tapes and the suitcase by burning them. The caretaker, Arthur Lalonde, testified that he could not recall being involved in burning videotapes in his entire career although he had been asked by officers from time to time to destroy property by fire. He testified that whenever that occurred an officer would remain with him until the item was completely destroyed.

Staff Sergeant McWade testified that he personally destroyed the videotapes. A note on the property report by Staff Sergeant McWade states that the materials were “destroyed by fire.” There is no further information to indicate the process of the destruction, the exact time and date, or individuals who witnessed the destruction.

Staff Sergeant McWade acknowledged that it might be helpful to have a section on the property report that indicates who actually disposed of the property. I agree. I am troubled both by the lack of record keeping with respect to the destruction of property and by the inconsistency of the evidence regarding who destroyed the tapes and how this was accomplished. In particular, I have difficulty accepting that the Detachment Commander would personally attend to the destruction of property by fire.

Some individuals have asserted that these videotapes contained proof of group pedophilic activity in the Cornwall area. I neither heard nor saw any evidence to suggest that the seized videotapes were of this nature.

The viewing or partial viewing of the tapes by the OPP officers was insufficient to determine whether they contained evidence of criminal activity. I find that Staff Sergeant McWade failed in his managerial duties by not requiring the investigators under his supervision to view the seized tapes in their entirety.

It is unfortunate that the OPP officers involved did not handle the videotapes in a more thoughtful and thorough manner. The relative absence of documentation, including the lack of a witness to the quit claim execution, the lack of a witness to the alleged destruction of the videotapes, and the omission on the return to justice form, along with the incomplete viewing of the tapes by a local officer who was reluctant to do so are all causes of concern.

Some of these issues can be addressed through the implementation of new policies and protocols. As such, and if not already in place, I recommend that quit claim forms require a witness signature; that at least two people be present for the complete destruction of property; that time, date, and method of destruction be

recorded along with both witnesses' signatures; and that the viewing of tapes with suspected criminal activity be better itemized and then archived for future reference. As has been clearly demonstrated in this case, a lack of transparency and poor record keeping can fuel rumours and must be avoided.

Investigation of David Silmsers for Extortion

Ken Seguin was found dead in his home on November 25, 1993. The death was investigated by Detective Constables Randy Millar and Chris McDonnell of the Lancaster Detachment of the OPP. During this investigation, these officers learned that David Silmsers alleged that Mr. Seguin had sexually abused him.

On January 28, 1994, OPP Superintendent Carson Fougère met with Doug, Nancy, and Keith Seguin. Following the meeting, an investigation was launched into the possible extortion of Ken Seguin by David Silmsers. In the course of this investigation, the officers involved obtained information relevant to Detective Inspector Tim Smith's concurrent investigations of sexual abuse by Father Charles MacDonald, conspiracy, and obstruction of justice.

On February 1, 1994, Detective Inspector Fred Hamelink was dispatched by Detective Superintendent Wayne Frechette to Long Sault concerning allegations of extortion. Detective Constable McDonnell became the lead investigator in Detective Inspector Hamelink's investigation.

On February 8, 1994, Detective Inspectors Smith and Hamelink met to exchange information. They discussed issues raised by their concurrent investigations. Detective Inspector Smith testified that he was concerned about proceeding with David Silmsers as a victim in one investigation and a suspect in another. He was also worried that the investigators would "trip over each other."

Between February 3 and February 17, 1994, Detective Inspector Hamelink's investigators obtained statements from staff at the Cornwall Probation Office. Detective Constable McDonnell and Constable Genier had a lengthy interview with Jos van Diepen.

Mr. van Diepen provided information in his statement regarding a former probation officer, Nelson Barque. Mr. van Diepen told the officers that Mr. Barque's career had ended when he resigned following a complaint that he was sexually involved with one of his probationers. Mr. van Diepen also provided information about a probationer who Mr. Barque had suggested live with Father Charles MacDonald. Mr. van Diepen also mentioned hearing about a dinner party at which Father MacDonald sodomized Mr. Silmsers and said that Mr. Seguin was present and did nothing about it. Mr. van Diepen also provided information about who in the community was friends with, or spent a lot of time with, Mr. Seguin. Among others he named Gerald Renshaw.

Clearly this statement contained information relevant to Detective Inspector Smith's investigation and should have been shared with him. Unfortunately, it appears that the statement was not provided to him either by the investigating officers or by Detective Inspector Hamelink, who reviewed the statement on June 1, 1994. Detective Inspector Smith had no recollection of the statement and it was not included in the Crown brief prepared by Detective Inspector Smith regarding the allegations against Father MacDonald.

The information provided about Mr. Barque was not related to the extortion investigation. It did, however, indicate potential sexual misconduct on the part of Mr. Barque and warranted further investigation. I find that Detective Inspector Hamelink should have ensured such follow-up occurred. This was another missed opportunity to uncover criminal activity by a former probation officer.

On May 12, 1994, Detective Inspector Hamelink and Detective Constable McDonell met with Malcolm MacDonald. Mr. MacDonald was a key witness in the extortion investigation because he was a friend of Ken Seguin, had acted as his lawyer in discussions with David Silmser, and had obtained written statements from Mr. Seguin regarding his contact with Mr. Silmser. As the friend and legal counsel of Father Charles MacDonald and because of his involvement in the illegal settlement agreement, Mr. MacDonald was also an important witness in Detective Inspector Smith's sexual assault, conspiracy, and obstruction of justice investigations.

Despite the overlap in interests, Detective Inspector Hamelink did not see the need to coordinate with Detective Inspector Smith before interviewing Mr. MacDonald. The information that Mr. MacDonald had a file on the matter and notes on his conversations with Mr. Silmser should have been of critical importance to both investigations. Because Detective Inspector Hamelink had confirmed the existence of the file and notes, he might have established grounds for a search warrant with respect to Detective Inspector Smith's investigations into conspiracy and obstruction of justice. In my view, this information was of such significance that Detective Inspector Hamelink ought to have ensured that it was immediately brought to his colleague's attention. Also, Detective Inspector Smith ought to have had the opportunity to review Detective Inspector Hamelink's notes and Mr. MacDonald's statement prior to his own interview of Mr. MacDonald, which took place in October 1994.

On September 29, 1994, Detective Inspector Hamelink met with Mr. Griffiths and presented him with the Crown brief and a verbal briefing. In a letter dated October 12, 1994, Mr. Griffiths concluded that there was insufficient evidence to provide reasonable and probable grounds to support a criminal charge of extortion against David Silmser. No charges were laid.

Detective Inspector Hamelink was unable to explain why he did not follow through on the agreement to meet with Detective Inspector Smith before the

officers jointly submitted their briefs to Mr. Griffiths. It was clear from Detective Inspector Smith's testimony that he was relying on this agreement to ensure that he had comprehensive information prior to the submission of his brief to Mr. Griffiths.

I find that there was insufficient coordination between Detective Inspector Hamelink's extortion investigation and Detective Inspector Smith's 1994 investigations. I point in particular to the failure to share information obtained in interviews with probation staff, Malcolm MacDonald, Gerald Renshaw, and CPS officers.

Given the extent of overlap between the investigations and the evidence of common interest that was uncovered, Detective Inspector Hamelink should have taken steps to provide the relevant information to Detective Inspector Smith rather than relying solely on informal coordination between the investigating officers. Detective Inspector Smith also could have made greater efforts to provide Detective Inspector Hamelink with relevant information uncovered during his investigations. As I discuss, Detective Inspector Smith testified that the issue of reasonable and probable grounds with respect to Mr. Silmser's allegations against Father MacDonald was a very close call. He should have had all of the evidence available before forming his opinion.

Commencement of Detective Inspector Tim Smith's 1994 Investigations

On February 3, 1994, Detective Inspector Tim Smith was assigned by Superintendent Frechette as case manager of the investigations in Cornwall of sexual abuse by Father Charles MacDonald, conspiracy, and obstruction of justice. He continued in his role as case manager in the investigations of historical sexual abuse of young persons at St. Joseph's and St. John's Training Schools. According to Detective Inspector Smith, the investigations themselves were mostly wound up but the prosecutions were ongoing. He was also concurrently responsible for a number of other cases, including homicides. In my view, Detective Inspector Smith had insufficient time to devote to the investigations in Cornwall. He was similarly overstretched during the Project Truth investigations.

Detective Inspector Smith understood that his investigation was threefold. First, he was being asked to re-investigate allegations of sexual assault perpetuated by Father Charles MacDonald. Second, in his view he was not asked to examine any conspiracy or collusion between the Cornwall police and the Diocese but just the allegation that the two institutions conspired to effect an illegal settlement with Mr. Silmser. And third, with respect to obstruction of justice, he understood that he was being asked to investigate the roles of the lawyers, specifically Malcolm MacDonald and Jacques Leduc.

Detective Inspector Smith understood that he was also to examine Murray MacDonald's actions. Murray MacDonald, the local Crown attorney, had prosecuted

some of the cases resulting from the Alfred investigation, into the St. Joseph's Training School, and Detective Inspector Smith had worked with him on previous cases. That he was now assigned to investigate Murray MacDonald may have amounted to a conflict of interest and at the very least created the appearance of a conflict.

I find that for the 1994 investigations assigned to Detective Inspector Smith, the OPP failed to define a mandate that provided appropriate direction and structure. The mandate for the Project Truth investigations was similarly ill defined. In my opinion, weaknesses in both investigations can be attributed, in part, to their imprecise mandates.

It appears from the correspondence between Deputy Commissioner Ronald Piers and Acting Chief Johnston that the two envisioned a broad and open-ended mandate for the OPP to investigate Mr. Silmsen's allegations and the associated settlement. Nevertheless, this was ultimately communicated to Detective Inspector Smith as an assignment to conduct three separate and distinct investigations.

This is unfortunate, as a broad and global investigation would probably have been more efficient and effective. Such an investigation would have encouraged a re-investigation of the David Silmsen matter and brought to light any conspiracies or cover-ups in relation to the illegal settlement.

Instead, a significant portion of the investigation focused on the particular issue of whether the CPS had conspired with the Diocese of Alexandria-Cornwall to effect the civil settlement. A more appropriate focus of the investigation would have been the broader question of whether the CPS, or anyone else, was involved in ensuring that the allegations of sexual abuse did not become known.

Re-Investigation of Father Charles MacDonald

At the request of the CPS, in 1994 the OPP conducted a re-investigation into the allegations by David Silmsen of abuse by Father Charles MacDonald. Detective Inspector Tim Smith was assigned to conduct the investigation. Although he described it as "very close," he ultimately concluded that he had insufficient grounds to charge Father MacDonald.

The Crown brief synopsis of the CPS investigation and David Silmsen's statement to the Cornwall police are the only CPS materials listed in the index to Detective Inspector Smith's Crown brief. This indicates to me that he did not receive important materials from the CPS, such as copies of the notes taken by Constable Heidi Sebalj, Sergeant Ron Lefebvre, and Constable Kevin Malloy during their first interview with Mr. Silmsen on January 28, 1993.

Although aware of its investigation of Father MacDonald, Detective Inspector Smith appears not to have contacted the CAS until March 21, 1994. At a meeting

the following day, the OPP officer informed Greg Bell, Bill Carriere, and Richard Abell of his plans for the investigation. The CAS provided him with some file materials, and arrangements were made for Detective Constable Michael Fagan to return to review the entire file. He did not do so until June, after Mr. Bell had made several follow-up calls.

In my view, this was a missed opportunity for the OPP and CAS to coordinate their efforts and conduct a joint investigation. Moreover, it appears that the OPP did not take full advantage of the information sharing that did occur.

Detective Inspector Smith took a statement from David Silmser on February 22, 1994, in the presence of Detective Constable Fagan and Mr. Silmser's lawyer, Bryce Geoffrey, at the OPP station in Kanata. Unfortunately, the police station had only "hard interrogation-type rooms" for the taking of videotaped statements, which, Detective Inspector Smith said, created a bad atmosphere for this type of interview. After learning of Mr. Silmser's prior experience with police stations, Detective Inspector Smith testified that the location may have contributed to some of the difficulties during the interview. He acknowledged that he would do things differently today.

By the time of his interview with Detective Inspector Smith, Mr. Silmser had already provided at least five statements that could have provided material for defence counsel. In this regard, given Detective Inspector Smith's recognition of the dangers associated with victims providing multiple statements, it is difficult to understand why he did not advise Mr. Silmser of the benefits of reviewing his other statements instead of relying solely on Mr. Silmser's lawyer to do so.

In the course of the interview, Detective Inspector Smith asked Mr. Silmser about difficulties he had had with a school teacher. Detective Constable Ron Wilson of the OPP had told Detective Inspector Smith that Mr. Silmser made allegations against a teacher named Marcel Lalonde during his statement to the CAS on November 2, 1993. The CAS felt unable to act on the allegation because it was too vague. In response to Detective Inspector Smith's questioning, Mr. Silmser disclosed that Mr. Lalonde was a grade 8 teacher at Bishop Macdonell School who had molested him.

On July 21, 1994, Detective Inspector Smith wrote to Acting CPS Chief Johnston about the allegations against Mr. Lalonde. It appears that this was the first time the information about Mr. Lalonde was referred to the CPS by either the OPP or the CAS. The letter sent to Acting Chief Johnston referred only to information in the CAS statement from Mr. Silmser, not to the additional information obtained by Detective Inspector Smith during Mr. Silmser's February 1994 statement.

Detective Inspector Smith, in his testimony, was shocked that he had delayed in referring the matter to the CPS and that he had missed providing both the

CAS and the CPS with the information in his possession from Silmsers statement of February 22, 1994: "I'm being honest with you. It appears I missed it. I was unaware somehow or I've missed it, and it should have been reported." When asked about the importance of providing the CAS with the further information, Detective Inspector Smith responded, "If I had given that information there's no doubt in my mind that they would have acted on it." I agree with Detective Inspector Smith that "there's no excuse" for not promptly sharing the information in his possession and appreciate his candour in acknowledging this oversight.

On June 7, 1994, Detective Constable Fagan conducted an interview of Father MacDonald. Detective Inspector Smith testified that it had been his intention to be present for the interview but he was out of town.

A number of weaknesses are evident in the statement taken by Detective Constable Fagan, many of which were acknowledged by Detective Inspector Smith in his testimony. Father MacDonald had his lawyer, Malcolm MacDonald, present at the interview and according to Detective Inspector Smith, Mr. MacDonald did "all the talking." Detective Inspector Smith testified that had he been there, "the interview would have been conducted differently ... Malcolm MacDonald wouldn't control it." Detective Inspector Smith would have asked about the relationship between Father MacDonald and Mr. Silmsers. Unfortunately, Detective Constable Fagan did not ask how well Father MacDonald knew Mr. Silmsers or about his relationship with altar boys generally. Detective Constable Fagan did not confirm the dates that Father MacDonald was assigned to particular parishes or confirm the roles he had in relation to young people.

Among the various statements given by Mr. Silmsers and his family members up to this point, there were some discrepancies and uncertainties about the date that Mr. Silmsers first became an altar boy and the year of the retreat where Mr. Silmsers alleged he was assaulted. Some of these uncertainties could, and in my view should, have been investigated and potentially resolved by the OPP before the interview with Father MacDonald by reviewing school records, property records, and parish records.

The interview with Father MacDonald had other shortcomings. Detective Constable Fagan raised and then, inexplicably, did not follow up on Father MacDonald's involvement with C-3 and C-56. Detective Inspector Smith testified that he would have further explored Father MacDonald's relationship with these two individuals. There were also no questions about C-88, C-89, or the unidentified individual who had called the Diocesan Centre in 1991 with allegations against Father MacDonald. Again, Detective Inspector Smith agreed questions in this area might have been helpful. In addition, the interview could have further explored Father MacDonald's knowledge of the circumstances of the illegal settlement with Mr. Silmsers.

Father MacDonald had some knowledge of the interactions between Mr. Silmsner and others leading up to the settlement. No questions were asked about his conversations with the Bishop or the Bishop's delegate. In fact, no follow-up questions to the comments about the settlement were posed to Father MacDonald. This is an interview that Detective Inspector Smith ought to have conducted himself. In his evidence, he took responsibility for the deficiencies in the statement and stated that he could have assigned a better interviewer to the case.

Detective Inspector Smith was contacted by Peter Griffiths on October 11, 1994, and asked to complete his three investigations promptly because they were "dragging." The Crown brief was finalized over the next month. With respect to reasonable and probable grounds, the brief's synopsis concluded: "Because of SILMSER's credibility, and selective memory, the investigators find it difficult to obtain the necessary reasonable grounds to believe these offences took place as indicated. However there still remains strong suspicion that SILMSER was sexually assaulted in some manner by Father Charles MacDONALD." Detective Inspector Smith stated his decision on reasonable and probable grounds was "very, very close."

It seems that the OPP officer's view on laying charges was influenced by his experience with the difficulties of succeeding in a historical sexual abuse prosecution where there is only one complainant. It was Detective Inspector Smith's preference to wait for more victims to come forward who would strengthen the case.

I am of the view that in making his decision, Detective Inspector Smith was overly concerned with the probability of conviction. Crown counsel, not the police, is responsible for deciding whether a reasonable prospect for conviction exists. Detective Inspector Smith was entitled to lay charges where he believed on reasonable grounds that an offence had been committed. If he felt more evidence was needed to bolster the prospect of conviction, he should have taken further investigative steps.

Having reviewed the evidence, I find that the OPP failed to take proper investigative steps and employ proper techniques in the 1994 re-investigation of Father Charles MacDonald. Moreover, I find that Detective Inspector Smith failed to sufficiently supervise Detective Constable Fagan to ensure that interviews were properly conducted.

There were significant flaws in the preparation and execution of the key interviews of David Silmsner and Father MacDonald. Also, insufficient investigative steps were taken to obtain independent records verifying important dates and to identify and follow up with further victims.

Although Detective Inspector Smith had experience investigating historical sexual abuse in an institutional setting, he had no experience with non-institutional

cases, which he acknowledged were more difficult. While such investigations are now part of the OPP's major case management plan, given the particular complexities and sensitivities that arise in historical sexual abuse cases, I recommend that case managers consult with the Regional or Detachment Sexual Abuse Coordinator early in the planning phases of such investigations and include these experts as part of the investigative team.

Obstruction and Conspiracy Investigations

Detective Inspector Tim Smith also investigated two related issues in February 1994: the alleged conspiracy between the Cornwall Police Service and the Diocese of Alexandria-Cornwall to effect a civil settlement that terminated the CPS investigation of David Silmsner's sexual assault allegations; and the alleged obstruction of justice by the lawyers who brought about that civil settlement in consultation with the local Crown attorney.

It was clear that the Diocese had been involved in effecting the civil settlement with Mr. Silmsner. Therefore, with respect to this conspiracy investigation, the question was whether the CPS had conspired with it in deciding not to pursue criminal charges against Father MacDonald. Detective Inspector Smith's theory was that if there was a conspiracy, Chief Claude Shaver had to be involved. I question this premise.

On July 13, 1994, Detective Inspector Smith and Detective Constable Fagan met with Chief Shaver. This was the only time that Detective Inspector Smith spoke with the CPS police chief and he did not take notes, at Chief Shaver's request. Moreover, he made very few notes after the interview. Detective Inspector Smith should have recorded notes during the interview, or should have made detailed notes about the discussion afterwards.

Another area of interest identified by Detective Inspector Smith was Chief Shaver's information regarding the settlement funds. In his statement, Chief Shaver stated that the Bishop had advised him that of the \$32,000 paid to David Silmsner, the Diocese had contributed \$10,000, Father MacDonald had contributed \$10,000, and another \$12,000 came from an unnamed source. Detective Inspector Smith testified that he thought that perhaps the unnamed source was Malcolm MacDonald, Father MacDonald's lawyer, but that the question of who paid the money was not really an issue in his investigations of the alleged conspiracy or obstruction of justice.

In my view, the source of the funds was potentially important evidence and given that Detective Inspector Smith was tasked with investigating the circumstances of the illegal settlement, I am surprised that he did not make more effort to confirm it. There is no indication that the payments were made illicitly, and so

presumably the amounts and payers could have been traced through financial records. The source of the funds might have helped identify co-conspirators. Yet it appears that Detective Inspector Smith did not make any effort to obtain these records either by requesting them or seeking search warrants.

Detective Inspector Smith stated that in hindsight it would probably have been beneficial to get statements from more CPS officers. I agree and find his justifications for not interviewing CPS officers less than satisfying. I am unconvinced that officers who may have been involved in a conspiracy would have come forward on their own. Moreover, several of the officers had already been interviewed during the investigation by the Ottawa Police Service.

Detective Inspector Smith also chose not to interview Constable Perry Dunlop. Given the allegations of cover-up that Constable Dunlop made against the CPS, it would have been prudent to interview him to determine what, if any, information he had to justify those claims.

Detective Inspector Smith and Detective Constable Fagan took a statement from Crown Attorney Murray MacDonald on July 14, 1994. Detective Inspector Smith and Murray MacDonald had worked together on a homicide case and on some of the Alfred training school prosecutions. Detective Inspector Smith did not think that his professional relationship with Mr. MacDonald created a conflict of interest, but agreed there could have been a perception of conflict. Given the widespread controversy in the community over these allegations, Detective Inspector Smith should have been more alert to the possibility of a perceived, if not actual, conflict of interest in investigating Mr. MacDonald.

Detective Inspector Smith and Detective Constable Fagan took a statement from the Diocese's lawyer, Jacques Leduc, on August 2, 1994. Mr. Leduc told Detective Inspector Smith that he prepared a draft "Release and Undertaking Not to Disclose" and faxed it to Mr. Malcolm MacDonald, who was having some difficulties because he had never prepared this type of document. It is apparent that Mr. Leduc was involved in the drafting process and that a paper trail of draft versions of the document at the centre of the investigation probably existed. Detective Inspector Smith testified that he did not think it was important to examine the faxes between the lawyers nor any notes they made during this time. I disagree. In my view, such a review could have been of great assistance in determining who had inserted and who had reviewed the illegal clause.

It is not within my mandate to make any finding as to whether Mr. Leduc inserted the illegal clause in the settlement agreement with David Silmser. It is clear to me, however, that Detective Inspector Smith did not sufficiently probe Mr. Leduc's involvement. He was not assertive in the interview with Mr. Leduc, did not attempt to obtain search warrants for Mr. Leduc's files relating to this matter, and failed to interview any of Mr. Leduc's staff. Further investigation might have

uncovered important information. Further preparation and consultation with others who had investigated lawyers would probably have been helpful.

Detective Inspector Smith and Detective Constable Fagan prepared the Crown briefs in November 1994. In the synopsis of the conspiracy brief, Detective Inspector Smith stated that the OPP had found “no evidence” to support the allegation that an agreement had ever been reached by the Cornwall police, the Crown attorney, and the Diocese to not proceed with charges in the David Silmsier matter.

On January 30, 1995, Detective Inspector Smith spoke to Mr. Griffiths, who indicated that charges should be laid against Malcolm MacDonald for obstruction of justice. Malcolm MacDonald was charged on February 3, 1995. On September 12, 1995, Malcolm MacDonald pleaded guilty and received an absolute discharge.

It is apparent that Detective Inspector Smith came to the conclusion early on, and primarily on the basis of his meeting with Chief Shaver, that the CPS was not involved in any conspiracy to effect a civil settlement with David Silmsier. Detective Inspector Smith believed that if a conspiracy existed, it had to involve Chief Shaver, and he was convinced Chief Shaver would not have agreed to anything with the Diocese because of his poor relationship with the Bishop. As a result, he did not believe there was a need to further investigate other officers involved. In my opinion, this was an error and Detective Inspector Smith’s starting premise was flawed.

This is not to suggest that I believe Detective Inspector Smith came to an inaccurate conclusion regarding CPS’s role in the settlement. I do, however, believe that his decision was premature. I point in particular to his failure to formally interview the CPS officers involved, such as Staff Sergeant Luc Brunet, Constable Sebalj, and Constable Dunlop.

Having reviewed the evidence, I find that Detective Inspector Smith and Detective Constable Fagan failed to take the proper investigative steps and employ proper techniques in their investigation of obstruction of justice. In particular, I note a lack of rigour in confirming the information provided to them by witnesses. It appears that Detective Inspector Smith relied almost exclusively on the statements taken from the potential suspects and witnesses as the foundation for this investigation. He made no request of Mr. Leduc for any documents or notes in his possession relevant to the settlement. I note that Mr. Leduc subsequently provided a copy of the draft release with handwritten notations in a civil proceeding. This was never provided to the OPP and would have been more useful than the generic precedent Mr. Leduc sent to them. Detective Inspector Smith acknowledged that he would have liked to have examined this and that it would have led him to question Mr. Leduc more carefully. Nor did Detective Inspector Smith ask

Malcolm MacDonald to provide certain relevant documentation in his possession, despite the fact that during the interview he mentioned his notes and his deposit book as places where there might have been further information.

Following the receipt of regional Crown Attorney Griffiths' opinion letters on December 21, 1994, advising that there were no reasonable and probable grounds in either the Father Charles MacDonald sexual abuse investigation or the conspiracy investigation, Detective Inspector Smith prepared a draft press release. Both the draft and the version released to the public address only two of the three investigations Detective Inspector Smith conducted in 1994. It makes no reference to the illegal settlement or the obstruction of justice investigation, which was still ongoing at that point and, as set out above, did lead to charges being laid against Malcolm MacDonald. Detective Inspector Smith agreed that more information should have been included so that public would not have been left with the impression that there was "no issue here."

In my view, the press release left the impression that the Detective Inspector's nine-month investigation revealed no wrongdoing in relation to the settlement made with David Silmser. This was incorrect and misleading.

Investigation of Milton MacDonald

In early 1994, a criminal investigation was initiated by the OPP of Milton MacDonald. Milton MacDonald is Crown Attorney Murray MacDonald's father and Detective Inspector Randy Millar's father-in-law.

Milton MacDonald had been convicted of child sexual abuse in the late 1960s or early 1970s. His wife was aware of the incident; his children, including Murray MacDonald and Detective Inspector Millar's wife, Marlene, were not.

On February 11, 1994, Murray MacDonald received a telephone call from his father. According to Murray MacDonald's statement to the police five days later, his father conveyed that a man, C-91, had called to tell him that he had been instructed by his parents to give a statement to a local OPP officer. C-91 said his parents told him that "person[s] who don't act properly with children should be reported." Murray MacDonald's mother informed her son of Milton MacDonald's previous conviction.

Murray MacDonald stated that he was cognizant of "the precarious position" both he and Detective Constable Millar were in with respect to this complaint. He advised Detective Constable Millar that if a complaint was reported, he ought to ensure that the District Commander, Superintendent Carson Fougère, was immediately made aware of the situation.

The following day, February 12, 1994, a family meeting was arranged among the siblings. Detective Constable Millar suggested that they go to see C-91 to

“see what he was going to do with his complaint.” Detective Constable Millar met with C-91’s father at the officer’s home. The two had been neighbours for a number of years. Given Detective Constable Millar’s position as a police officer and his family relationship with Milton MacDonald, it is unfortunate that he chose to visit C-91’s father. Nevertheless, I think it is clear from the officer’s subsequent actions in reporting the complaint that he did not intend to use his position to attempt to prevent a proper investigation.

Detective Constable Millar contacted Superintendent Fougère and advised him of what had occurred to date. Superintendent Fougère said that the matter needed to be investigated. Detective Constable Millar received a call from C-91’s father, who told him that Milton MacDonald had molested C-91 when C-91 was fourteen years old. According to Detective Constable Millar’s statement, he told C-91’s father that he should not receive any more information and would arrange for outside investigators to be assigned.

On March 4, 1994, CAS social worker Bill Carriere contacted the OPP after hearing on the news that a Lancaster-area man was suspected of child sexual abuse. On March 30, 1994, Mr. Carriere received a call from Constable Ben Beattie advising that the OPP had received information about a child, currently fourteen. They agreed that the OPP would proceed without the involvement of the CAS and update the CAS on progress. On April 11, 1994, Mr. Carriere called the OPP for an update on the victim interview. On April 19, 1994, Mr. Carriere was informed that the OPP would not release the victim’s names to CAS. I neither heard nor saw any reason not to disclose the information that had been promised to Mr. Carriere. Indeed, the failure to disclose prevented the possibility of a joint investigation with the CAS and prevented the CAS from providing any victim assistance it might have wanted to facilitate. Moreover, cooperation with the CAS might have assisted the OPP in finding other victims.

I want also to comment here more generally on the problems that arise from the lack of clarity regarding the duty to report in cases of historical sexual abuse. This situation reinforces the need to amend the provision on the duty to report in the *Child and Family Services Act* to specifically include historical sexual abuse.

In May 1994, Milton MacDonald was criminally charged with eleven offences relating to the sexual molestation of eight young boys over a thirty-year period. He pleaded guilty to nine of the charges and was sentenced to a period of incarceration of twenty-two months.

1994 Investigation of Nelson Barque

As discussed, Nelson Barque was a probation and parole officer in Cornwall from August 1974 to May 1982. He was the probation officer for Robert Sheets, C-44, and Albert Roy, all of whom alleged that he sexually abused them. He

also allegedly abused C-45. The OPP became involved in 1994, when Mr. Roy made a complaint against Mr. Barque. In 1998, the OPP investigated Mr. Barque again, this time in relation to allegations made by C-45 and Mr. Sheets.

In November 1994, Albert Roy contacted the Cornwall Police Service and alleged that Nelson Barque and Ken Seguin sexually abused him when he was on probation in the mid-1970s. The OPP and CPS decided to jointly investigate the allegations, and OPP Detective Constable William Zebruck was assigned to work in collaboration with CPS Constable Heidi Sebalj.

On January 3, 1995, Nelson Barque was charged with indecent assault and gross indecency in relation to incidents involving Albert Roy. Mr. Barque pleaded guilty to the indecent assault of Mr. Roy on July 10, 1995, and was sentenced to four months of incarceration and eighteen months of probation.

Despite these results, the 1994 investigation of Mr. Barque displayed a lack of thoroughness. Detective Constable Zebruck failed to take proper investigative steps and employ proper techniques, which included the taking of statements, the identification of corroborative evidence, and the identification of, and follow-up with, further possible victims. In particular, I point to Detective Constable Zebruck's inadequate note taking and his failure to follow up on leads that might have revealed further victims of Mr. Barque, such as those individuals whose names were given to him by probation office staff, or other possible perpetrators, such as Richard Hickerson and Ken Seguin.

It does not appear that Detective Constable Zebruck took any investigative steps to follow up on Mr. Roy's allegation. C-90 told Detective Constable Zebruck that Mr. Hickerson was buying alcohol for and having a sexual relationship with Robert Sheets. Detective Constable Zebruck did not pass on this allegation to the CPS, the CAS, or his superiors at the OPP, nor did he flag Mr. Hickerson's name in the Ontario Municipal and Provincial Police Automation Cooperative (OMPPAC) system. Project Truth investigated Mr. Hickerson in 1998. He was about to be charged, but committed suicide before the arrest date. The allegations made against him might have become known earlier had Detective Constable Zebruck conducted a more thorough investigation or had he alerted the appropriate authorities in 1994.

1995 Investigation of Father Charles MacDonald

As discussed previously, in 1994, Detective Inspector Smith and Detective Constable Fagan conducted an investigation into allegations of sexual abuse made by David Silmsier against Father Charles MacDonald. In 1995, the OPP learned of additional complainants, and the investigation was reopened.

On August 23, 1995, Detective Constable Fagan advised Detective Inspector Smith that David Silmsier had called him, Detective Constable Chris McDonell,

and the CPS to inform them that he had located another alleged victim of Father Charles MacDonald. Detective Constable Fagan also said that Inspector Richard Trew of the CPS had a letter from the same victim, John MacDonald, regarding an alleged sexual assault by Father MacDonald. The letter, dated August 11, 1995, had been sent to Father Kevin Maloney, who turned it over to the CPS on August 15, 1995.

Following discussions between Detective Inspector Smith and Inspector Trew, it was decided that the OPP would take this case. Two weeks later, on September 25, 1995, John MacDonald met with Richard Abell of the Children's Aid Society. Mr. MacDonald expressed frustration with difficulties he was having in getting his complaint heard. In my view, Detective Inspector Smith should not have waited a month to contact Mr. MacDonald to inform him that he would be taking the case.

The police knew from the commencement of the investigation that John MacDonald had some connection with Mr. Silmsner.

Detective Inspector Smith and Detective Constable Fagan met, on January 31, 1996, with Mr. Pelletier, whom Detective Inspector Smith had worked with on the St. Joseph's Training School case in Alfred. According to Detective Inspector Smith, Mr. Pelletier was perhaps at that time the most experienced Crown attorney in sexual assault investigations in Canada. Mr. Pelletier confirmed his opinion that charges should be laid in a letter dated March 5, 1996. Father MacDonald was arrested on March 11, 1996. A press release stating that charges had been laid was issued the same day.

After Father Charles MacDonald was arrested, an additional complainant, C-8, came forward, in January 1997. Before disclosing his allegations of abuse to the OPP, C-8 made these claims to Constable Perry Dunlop of the CPS during a private investigation that Constable Dunlop was conducting while he was on sick leave. Father MacDonald was charged in 1998 in relation to these allegations. Prior to the trial in 2002, C-8 recanted his allegations against Father MacDonald.

C-8 had contacted Constable Dunlop in early June 1996 to inform him of allegations of abuse by Ron Leroux and Marcel Lalonde. Shortly thereafter, C-8 had provided a statement to Randy Porter, a retired police officer from Toronto who assisted Constable Dunlop, and Charles Bourgeois, Constable Dunlop's lawyer. C-8 alleged that when he was thirteen years old, Father MacDonald had "made a pass" at him at "St. Clemens Parish."

C-8 provided a further statement on December 12, 1996. By this time, C-8 had met with Constable Dunlop on several occasions. In this statement, C-8 alleged that he had been sexually assaulted by Father MacDonald at St. Columban's Church when he was twelve or thirteen years old. He said Father MacDonald

was the first person to sexually abuse him. In this statement he also alleged abuse by Marcel Lalonde.

C-8 provided a third statement on January 23, 1997, in which he made a further allegation against Father MacDonald, claiming that he was abused with a candle at his father's funeral. On this date, he also attended the Lancaster OPP Detachment with Mr. Bourgeois, who assisted him with his criminal charges, and read the prepared statement in the presence of Detective Constable Don Genier.

On January 27, 1997, Detective Constable Genier contacted Detective Constable Fagan to advise him of C-8's video statement. Detective Constable Genier mailed the videotaped interview of C-8 regarding his allegations against Father MacDonald to Detective Constable Fagan on February 10.

The preliminary inquiry in *R. v. Charles MacDonald* began on February 24, 1997. That evening, C-8 appeared on television and spoke about his allegations against Father MacDonald. Crown Attorney Robert Pelletier was unaware of C-8's allegations until the issue was raised the next day in court. As a result of this new development, counsel for Father MacDonald requested an adjournment of the preliminary inquiry. It resumed in September 1997.

According to Detective Constable Genier's notes, he received a call from Detective Constable Fagan, who was in court, the morning of February 25, 1997. Detective Constable Fagan asked him several questions about C-8's allegations of abuse by Father MacDonald. He apologized because he thought the video he had received from Detective Constable Genier pertained to Marcel Lalonde.

It appears that Detective Constable Fagan had not reviewed the videotaped statement from C-8 prior to the preliminary inquiry and that neither Detective Constable Fagan nor Detective Inspector Smith had informed Mr. Pelletier of C-8's allegations. This information should have been provided to Mr. Pelletier, who probably would have disclosed it to the defence. This may not have avoided an adjournment, but at the very least the Crown would have been fully informed and prepared to deal with the issue at the preliminary inquiry.

Detective Constable Genier later faxed a copy of C-8's statement to Detective Constable Fagan and met with him and Mr. Pelletier at the courthouse. The three of them then met with defence counsel. Detective Constable Genier answered questions about the events surrounding C-8's complaint, such as how C-8 became involved with Charles Bourgeois.

On February 27, 1997, Detective Constable Genier received a call from Detective Constable Fagan advising that Mr. Pelletier wanted C-8 interviewed and that he had a number of questions that he wanted asked. Detective Constable Genier met with C-8 that day at the Ottawa courthouse and took a statement. C-8 recalls that he attended the Father MacDonald preliminary inquiry because

Constable Dunlop asked him to go with him for support. He recalls being pulled aside by two OPP officers as he was leaving the courthouse on February 27. Charges were laid against Father MacDonald in respect of C-8's allegations in January 1998.

Investigation and Prosecution of Marcel Lalonde

Marcel Lalonde worked as an elementary school teacher with the Stormont, Dundas & Glengarry County Roman Catholic Separate School Board from 1969 until 1997, when he was suspended following his arrest on sexual abuse-related charges.

The CPS first became aware of and investigated allegations of sexual abuse against Mr. Lalonde in 1989. No charges were laid following the investigation. Mr. Lalonde's name again came to the attention of the CPS in 1994 when it received information from the OPP that David Silmser had told the CAS that his former teacher, Mr. Lalonde, had abused him. The allegation was not pursued.

In the fall of 1996, probation officer Sue Lariviere informed the CPS that one of her probationers, C-68, had alleged sexual abuse by Mr. Lalonde. Constable René Desrosiers of the CPS was assigned to follow up. Constable Desrosiers informally interviewed C-68 about his allegations on October 30, 1996. C-68 told him that when he was twelve years old, he was sexually abused by his teacher, Mr. Lalonde, during overnight camping trips. Because the abuse took place outside CPS jurisdiction, Constable Desrosiers referred the complaint to the Lancaster OPP.

Constable Desrosiers was not aware of the previous CPS investigation of Mr. Lalonde. He did not run any background checks on Mr. Lalonde because, he testified, he was turning the matter over to the OPP, which had the same computer system as the CPS and so could operate its own search of OMPPAC. Unfortunately, the earlier investigation by the CPS predated this automated system and therefore it contained no record of the investigation. When the OPP was referred C-68's complaint in 1996, it had no way of knowing that a prior investigation had taken place.

Detective Constable Don Genier was assigned the investigation of C-68's allegations on November 4, 1996. That day, he spoke to C-68's sister and mother, both of whom were aware of the allegations. He also met with school board officials Kevin Linden and Bernard Warner, the Superintendent, to discuss the file and obtain information.

In January 1997, Detective Constables Genier and Chris McDonell arrested Mr. Lalonde and laid charges with respect to C-68.

During his investigation of C-68's complaint and after Mr. Lalonde's arrest, Detective Constable Genier obtained information about other possible victims of Mr. Lalonde, including David Silmsen. The Detective Constable attempted to locate Mr. Silmsen to discuss his allegations. On January 23, 1997, Detective Constable Genier received a call from Detective Constable Fagan, who was working on the Father MacDonald case. David Silmsen's wife, Pamela, had advised Detective Constable Fagan that her husband did not want to discuss the abuse committed by Mr. Lalonde until the court proceedings with Father MacDonald were completed.

Detective Constable Genier also reviewed the 1994 Crown brief on the re-investigation of Father MacDonald and made efforts to contact the witnesses named therein to ask if they had any association with Mr. Lalonde.

Detective Constable Genier learned of another possible victim of Marcel Lalonde, C-8, who was under investigation for sexually assaulting a teenaged girl. On December 18, 1996, Detective Constable Genier spoke to C-8 as a suspect in this investigation. He told the officer that he had been abused by Father MacDonald and Mr. Lalonde. The following day, Detective Constable Genier arrested and charged C-8 with the sexual assault of the teenager.

On January 23, 1997, Detective Constable Genier met with C-8 and his lawyer, Charles Bourgeois, at the OPP's Lancaster Detachment. Detective Constable Genier conducted two videotaped interviews: one in relation to C-8's allegations against Father MacDonald, and the other in relation to his allegations against Mr. Lalonde. During each interview, C-8 read a prepared statement. At the conclusion of the interviews, C-8 provided names of other possible victims of Mr. Lalonde, including C-66.

The OPP laid charges against Marcel Lalonde only in relation to the allegations made by C-68. All of the other victims and potential victims uncovered by Detective Constable Genier were referred to the CPS. On April 29, 1997, the CPS laid charges against Mr. Lalonde in relation to the complaints made by C-8, C-45, C-66, and a number of other individuals.

Detective Constable Genier met with Crown Attorney Guy Simard on April 1, 1997. Mr. Simard explained that the Marcel Lalonde case would be reassigned because there was a conflict of interest in the Cornwall Crown Attorney's Office.

The allegations against Marcel Lalonde did not become part of Project Truth. Detective Constable Genier became a member of the Project Truth team and remained responsible for the OPP investigation into Marcel Lalonde. It was expected that he would be able to deal with any overlapping issues that arose between the Marcel Lalonde case and the Project Truth investigation.

Following the arrest of Mr. Lalonde by the CPS, Constable Desrosiers assumed responsibility for all the CPS complainants, while Detective Constable Genier

remained responsible for the one OPP complainant, C-68. Before the preliminary inquiry, a new information was sworn combining the counts contained in the information of January 1997 and of April 1997. Significant coordination between CPS and the OPP was required for effective disclosure during the Marcel Lalonde prosecution. Constable Desrosiers testified that he and Detective Constable Genier would each look after the disclosure from their own police services. Neither had the opportunity to review the documents the other was disclosing.

In joint investigations involving more than one police force, I recommend that one officer be responsible for *all* disclosure requests. This officer should have a contact on the other force or forces that assist with disclosure. It is important that one officer oversee and track which items have been disclosed to the Crown on behalf of all police forces involved in the investigation.

Mr. Lalonde's preliminary inquiry commenced on January 13, 1998. Constable Perry Dunlop was called by defence counsel to give evidence. It became evident during his testimony that he had not disclosed all documents in his possession relevant to the Marcel Lalonde prosecution.

Constable Desrosiers testified that he was not aware that Constable Dunlop had provided any disclosure to Project Truth until he saw Detective Constable Genier's memorandum to Detective Sergeant Pat Hall. In particular, he was not aware that Constable Dunlop had provided a yellow binder in October 1997, which contained notes relevant to Mr. Lalonde.

Mr. Lalonde was committed to trial following the preliminary inquiry, and a trial date was set for October 4, 1999. On September 29, 1999, defence counsel wrote to the Crown requesting notes taken by Constable Dunlop on September 11, 1996, and on December 12, 1996. These notes were in a package of materials that Constable Dunlop had delivered to Project Truth in a yellow binder in October 1997.

In my view, any notes obtained by Project Truth that indicated that there was contact between Constable Dunlop and any of the complainants in the Marcel Lalonde prosecution ought to have been disclosed to the Crown upon receipt. Moreover, after Constable Dunlop's contact with C-8 was raised at the preliminary inquiry, it became quite clear that the Crown was interested in obtaining any notes that the Constable had made in this regard. Accordingly, it ought to have been apparent to the OPP that notes in its possession indicating such contact, whether or not they referred to Mr. Lalonde specifically, should have been disclosed to the Crown.

It is clear that information was not effectively and efficiently shared. In my view, the OPP failed to develop and apply proper practices or protocols to ensure effective cooperation with the CPS and local OPP detachments, including

disclosure procedures in relation to issues arising from the involvement of Constable Dunlop in Project Truth investigations.

OPP Detective Inspector Pat Hall received a letter from Assistant Crown Attorney Claudette Wilhelm dated October 5, 1999, requesting that the OPP again attempt to obtain full disclosure from Constable Dunlop. Crown Wilhelm also asked Detective Inspector Hall to tell Constable Dunlop not to contact any of the complainants in the Marcel Lalonde case. On October 28, 1999, Detective Inspector Hall informed her that he could not comply with her request because it “would not be prudent” for him to become involved with Constable Dunlop on matters not subject to the Project Truth investigation. Detective Inspector Hall also wrote: “While dealing with Project Truth matters, and as a Detective Sergeant, I had contact with Constable Perry Dunlop on numerous occasions regarding his disclosure in our matters. He has assured Project Truth officers that he has provided all disclosure relating to our investigation. I have no reason to believe otherwise at this time.”

This comment from Detective Inspector Hall is in stark contrast to the information available at that time. In the fall of 1998, Constable Dunlop had refused to sign a memo confirming that he had made full disclosure. Nothing had occurred since then to indicate that full disclosure had been made. Quite to the contrary, the disclosure of the November 19, 1996, note demonstrated that Constable Dunlop had items in his possession that he had not given to the OPP. In addition, this statement is inconsistent with the discussions that Detective Inspector Hall was having with CPS Staff Sergeant Garry Derochie and Acting Inspector Rick Carter around this time about investigating Constable Dunlop for obstruction of justice or obtaining a search warrant for his residence.

Marcel Lalonde was convicted on November 17, 2000, on charges relating to four of the complainants: C-45, C-8, C-66, as well as another individual. He was acquitted of charges in relation to the remaining complainants, including C-68. On May 3, 2001, Mr. Lalonde was sentenced to a period of incarceration of two years less a day.

Events Leading up to Project Truth

In June 1996, Constable Perry Dunlop launched a lawsuit against the Cornwall Police Service, the Diocese of Alexandria-Cornwall, and others, claiming over \$40 million in damages. The lawsuit focused primarily on the events surrounding the illegal settlement with David Silmser and the subsequent *Police Services Act* charges that were brought against Constable Dunlop for disclosing Mr. Silmser’s statement to the Children’s Aid Society. The action alleged malicious prosecution, negligence, abuse of process, and defamation. It also alleged that the CPS’s

treatment of Constable Dunlop “was part of a greater conspiracy to keep a lid on allegations of sexual abuse involving prominent individuals in Cornwall which included Father Charles MacDonald and the late Ken Seguin.”

Beginning around June 1996 and continuing into spring 1997, Constable Dunlop, who was off work on sick leave, began speaking to witnesses and alleged victims, in conjunction with his wife, brother-in-law, and lawyer, about allegations of sexual abuse in the Cornwall area. They compiled a number of witness statements and affidavits, some of which were used to support Constable Dunlop’s civil action.

On December 16, 1996, Charles Bourgeois contacted London Chief of Police Julian Fantino (now Commissioner of the Ontario Provincial Police). Chief Fantino was known for his force’s work on Project Guardian, a high-profile investigation into the sexual exploitation of boys. Mr. Bourgeois asked Chief Fantino to investigate the allegations of child sexual abuse that had been identified by Constable Dunlop.

Commissioner Fantino testified that he felt it would be inappropriate to involve himself in this matter and that he told Mr. Bourgeois he did not wish to receive any material, would not provide feedback on it, and would not conduct an investigation of any kind.

On December 19, 1996, Chief Fantino received a package from Mr. Bourgeois consisting of a binder, a videotape, and audiotapes. The binder contained statements and affidavits from a number of alleged victims and witnesses, pictures of and background information on various priests and other alleged perpetrators, the amended statement of claim for Constable Dunlop’s civil action against the CPS and others, media articles, the charge sheet of the *Police Services Act* charges against Constable Dunlop, as well as related judicial decisions, and an excerpt from the book *Boys Don’t Cry*. These materials became known as the “Fantino Brief.” In the accompanying covering letter, Mr. Bourgeois wrote, “[M]y clients and I sincerely appreciate the considerable time, effort and commitment you will be affording this case,” and, “After so many failed attempts, they feel you are the man for the job.” Commissioner Fantino testified that Mr. Bourgeois was dismissive of all that he had said and was intent on sending him the material “no matter what.” In my opinion, Mr. Bourgeois and the Dunlops were desperate to have this matter dealt with by someone in authority.

Chief Fantino met with Detective Chief Superintendent Wayne Frechette, then head of the OPP’s Criminal Investigation Bureau, in early February 1997 and gave the material to him. He did not contact Mr. Bourgeois or the Dunlops to acknowledge receipt of the materials or to inform them that he had forwarded them to the OPP. I commend Commissioner Fantino for taking the initiative to ensure that the materials were forwarded to the proper authorities. However, I find it

unfortunate that he did not inform Mr. Bourgeois of what he did with the materials, which might have reduced Constable Dunlop's sense of frustration in trying to convince someone to look into these allegations.

After a discussion among senior officers at the OPP Headquarters in Orillia, a decision was made to give the Fantino Brief to Detective Inspector Tim Smith. He received it on or around February 18, 1997.

Detective Inspector Smith testified that after he reviewed the Fantino Brief, he knew that this would require a large-scale investigation. In addition, around the same time, other information related to the brief was coming to light, including information contained in the videotaped statements of Ron Leroux and C-8 and further documentation relating to Constable Dunlop's action against the CPS.

In the same month that the OPP received the Fantino Brief, Ron Leroux gave a statement to two OPP officers in Orillia outlining allegations similar to those contained in the brief. Mr. Leroux described a "clan" of pedophiles in Cornwall. He claimed he saw "clan" members with adolescent male prostitutes during trips to Fort Lauderdale, Florida. They also met at the parish house in St. Andrews and at Malcolm MacDonald's cottage on Stanley Island near Summerstown, Ontario. Mr. Leroux asserted that boys were brought to the cottage and molested by various members of the group.

The Project Truth investigation eventually revealed that few of Mr. Leroux's claims were well founded and most were greatly exaggerated or simply untrue. Many elements of Mr. Leroux's statement became the basis for rumours within the media and the Cornwall community. It is significant to note that Mr. Leroux testified that a number of things he said in his various statements were false. In particular, he testified that he had not witnessed a ritual at the Cameron's Point retreat involving sheets and candles. He further admitted that he did not even know some of the people he had identified as belonging to the "clan" of pedophiles.

However, a few of Mr. Leroux's claims were consistent with statements made by others and with evidence uncovered by Project Truth. For example, a number of complainants alleged that they had been abused by Malcolm MacDonald, and he was arrested by Project Truth based on some of these allegations. Numerous individuals also told Project Truth that they were abused by probation officer Ken Seguin. In addition, Project Truth learned that tapes containing pornography were seized from Mr. Leroux's home in 1993 and were then destroyed by the OPP.

After Detective Inspector Smith reviewed the Fantino Brief, he contacted Crown Robert Pelletier. They met on March 20, Detective Inspector Smith provided Mr. Pelletier with the brief, and they discussed whether any of the materials in it needed to be disclosed to the defence in the Father Charles MacDonald prosecution. They decided that Mr. Pelletier would review the

brief and set up a meeting with the OPP and Peter Griffiths, Director of Crown Operations, Eastern Region.

Detective Inspector Smith invited Detective Sergeant Hall and Detective Constables Genier and Fagan to attend. It was decided at this April 24, 1997, meeting that the OPP would investigate all the allegations in the Fantino Brief.

Before the meeting, Detective Inspector Smith determined that the investigation should take the form of a special project. The participants at the meeting agreed that he should lead the investigation with a team of officers working under his direction. Unfortunately, there was no discussion about how to properly frame the mandate of this special project.

I question the OPP's apparent failure to determine for itself the most appropriate way to investigate sexual abuse in the Cornwall area. It appears that the scope of the investigation was dictated by the information collected by Constable Perry Dunlop, rather than by a rational and well-thought-out strategy developed by the OPP. This led to the creation of a mandate that provided insufficient structure and focus for Project Truth.

Although this was the founding meeting for a major investigation, none of the participants took minutes or detailed notes of what was decided. Detective Inspector Smith took some brief, point-form notes of the key points. Detective Sergeant Hall's notes are equally sparse. Given the magnitude and scope of the investigation contemplated, it would have been appropriate to have a note taker present and to write a report following the meeting.

It is clear to me that the participants at this meeting were not all aware of the enormity of the task they had undertaken.

On April 8, 1997, approximately two weeks before the April 24 meeting between the OPP officers and the Crowns, Constable Dunlop attempted to deliver a set of four binders, a tape of a *Fifth Estate* episode featuring him, and a covering letter to three different institutions: the Ministry of the Attorney General, the Ministry of the Solicitor General, and the Ontario Civilian Commission on Police Services (OCCPS). The binders contained the same documents as the Fantino Brief plus some additional materials, including three new statements from victims and materials disclosed during the *Police Services Act* charges against Constable Dunlop. The materials in these binders are referred to throughout this Report as the "Government Brief." The covering letter was seven pages long and set out numerous allegations of sexual abuse, as well as an allegation that the Cornwall Police Service and others had conspired to obstruct justice. It also explained some of the history of the case.

Unfortunately, only the Ministry of the Solicitor General sent the material it received on to the OPP. Because the Ministry had accepted only Constable Dunlop's covering letter, the OPP did not receive the binders that Constable

Dunlop had attempted to deliver with it. The OCCPS held on to the material and did not transfer it to anyone. All that is known about the Government Brief that was delivered to the Ministry of the Attorney General is that the Ministry was later unable to locate it.

The OPP did not obtain a copy of the Government Brief until July 31, 1998, over a year after it had been delivered. However, in April 1997, it received several indications that Constable Dunlop had produced additional materials.

The OPP did receive the covering letter that was sent to the Solicitor General at or around the time of the April 24 meeting. The letter lists “four volumes of documents” as one of the enclosures. In the body of the letter, Constable Dunlop describes the documents that he received as disclosure through the *Police Services Act* hearing. The Fantino Brief consisted of only one binder and did not include the *Police Services Act* investigative materials. These discrepancies should have led the OPP to consider whether the materials delivered by Constable Dunlop on April 8 contained information not in their possession.

Detective Inspector Smith and Detective Sergeant Hall decided to name the special project “Project Truth” because the purpose of the investigation was to discover the truth behind the allegations in Constable Perry Dunlop’s materials. Detective Inspector Smith had begun work on an operational plan in March 1997. He met with Detective Sergeant Hall on June 5, 1997, to put together the plan to be submitted to OPP Headquarters for approval. The operational plan provided an estimate of the size and scope of the investigation, the resources required, and the manner in which it would be conducted. The authors of the plan appear to have had a good sense of the problems that could arise in a multi-victim, multi-offender investigation in terms of the large numbers of victims who may come forward. However, they vastly underestimated the time required to complete the investigation and the financial and human resources needed. Experienced officers like Detective Inspector Smith and Detective Sergeant Hall should have known that one year was not sufficient for this type of project.

Detective Inspector Smith emphasized the dedication of the officers who joined Project Truth, explaining that they missed overtime pay that they would have received if they stayed at their local detachments. It seems to me that limits on overtime pay placed an arbitrary cap on the investigation. Once they became aware of the enlarged scope of the investigation, Detective Inspector Smith and Detective Sergeant Hall should have had some discretion in determining when overtime was necessary, and the OPP should have made additional resources available if and when they were requested. Understaffing an investigation like Project Truth does a disservice to potential victims and to the police officers involved. Adequate funding and organizational support are crucial.

The OPP did not draw on the officers in the region who had experience investigating historical and non-institutional sexual abuse, such as those involved in Project Jericho. The Project Truth team also failed to make use of the Regional Sexual Abuse Coordinator and her Assistant Coordinator, who were in place at the time. No female officers were considered for positions on Project Truth. Although the allegations in the Fantino Brief primarily involved male-on-male abuse, Project Truth's mandate was not limited to male victims, and a number of female victims did in fact come forward.

Another problem with the team selected was that it put a strain on the work force in the local detachments. Detective Constables Genier and Dupuis were both based out of the Long Sault Detachment before joining Project Truth. Detective Inspector Smith was concerned about taking too many resources from the region, and asked for Detective Constable Dupuis only after he was unable to obtain an officer from another jurisdiction whom he had requested. The Long Sault Detachment was left short-staffed, which contributed to significant problems, including a failure to act on a complaint about Jean Luc Leblanc discussed later.

The operational plan was submitted on June 12, 1997. It was initially rejected and additional information was requested. Detective Inspector Hall attributed the delay in approval to an internal OPP dispute. In my view, the Criminal Investigation Bureau's delay in approving the operational plan and releasing funds could have created significant obstacles, and I therefore find that the OPP failed to secure, make available, and assign resources to Project Truth in a timely manner.

Shortly after the financing for Project Truth was approved, newspaper articles appeared. One stated that Project Truth would be investigating a "purported pedophile group in Cornwall." The article criticized the OPP for not commencing the investigation sooner, given that it had been aware of the allegations for months.

These articles were published before an official press release for Project Truth, issued on July 28, stated, "The Major Cases Section of the Ontario Provincial Police is investigating allegations of sexual abuse in the Cornwall, Ont. area ... OPP investigators have been investigating since early spring (1997) and will continue to do so." In my view, the press release is misleading and overstates the work done by the OPP up to this point.

The OPP held an official press conference on September 25, 1997. The media release stated, "Any male person who may have been, or is presently being sexually abused by a paedophile, or has any information regarding this type of activity is urged to call the investigators," thus implying that Project Truth was limited to allegations of abuse perpetrated against men. This was a mistake.

I appreciate Detective Inspector Smith's candour in recognizing that mistakes were made. He admitted that the OPP had done a poor job of letting the public know what was going on throughout the Project Truth investigation.

Overview of Project Truth Investigations

The investigative phase of Project Truth began in earnest immediately after the media coverage at the end of July 1997, with the interviews of Claude Marleau and C-96. It concluded three years later, in the summer of 2000. An official press release announcing the end of the investigation was issued in August 2001 after the officers received an opinion on the last of the Crown briefs. Project Truth officers remained available to deal with incoming complaints through their local OPP detachments and continued to provide assistance with ongoing prosecutions. The final Project Truth prosecution ended on October 18, 2004, when Justice Plantana stayed proceedings against Jacques Leduc.

Project Truth laid 115 charges against fifteen suspects in relation to allegations of sexual abuse made by thirty-four individuals.

Of the fifteen individuals arrested by Project Truth, only one was convicted in Ontario. This appears to be the statistic most frequently cited in the media and by Project Truth's detractors, but it does not tell the whole story. Marcel Lalonde was investigated jointly by the OPP and the CPS and was convicted on a number of abuse-related charges. Although this was not a Project Truth case, the OPP investigator in this matter was Detective Constable Genier, who was a member of Project Truth. Father Paul Lapierre was prosecuted in both Ontario and Quebec. Although he was acquitted on the Project Truth charges in Ontario, he was convicted in Quebec of charges brought by Quebec police as a result of investigative work done by Project Truth officers.

Of the other individuals arrested by Project Truth, four suspects, including Father Lapierre, were found not guilty after a trial. Four suspects died before their trials. In three other cases, the Crown withdrew the charges prior to trial. The charges against Keith Jodoin were withdrawn because the Crown determined that there was no reasonable prospect of conviction. In the Bernard Sauvé and Father Romeo Major cases, the charges were withdrawn because the alleged victims were too ill or unwilling to proceed.

Three other cases ended in a stay of proceedings. In the case of Brother Leonel Romeo Carriere, the charges were stayed because he was too ill to make full answer and defence at a trial. In the case of Father Charles MacDonald, the charges were stayed due to delay. The charges against Jacques Leduc were initially stayed due to wilful non-disclosure. The stay was successfully appealed, but a further stay was granted during the retrial due to delay.

Throughout Project Truth, Detective Sergeant Hall was responsible for day-to-day decisions such as assigning tasks and giving direction to the investigators. While Detective Inspector Tim Smith was the case manager, he made major decisions, such as whether a person should be arrested or whether an allegation fell within the project mandate, but often in conjunction with Detective

Sergeant Hall. The two officers were in close contact with one another, even though Detective Inspector Smith was not often in the office. Pat Hall was promoted to Detective Inspector and became case manager in April 1999, after Detective Inspector Smith (effectively) retired, at which point he made these decisions on his own.

Each investigation was assigned a lead investigator. Although one person was designated as the officer responsible, the officers were supposed to share information and assist each other on their cases. Detective Inspector Hall was the only person who read every statement. Information sharing between the officers was done informally. Detective Inspector Hall supervised Detective Constables Steve Seguin, Don Genier, and Joe Dupuis, who conducted the vast majority of the Project Truth interviews.

In my view, staffing was a problem for Project Truth. There were not enough officers, and those assigned to the project were not exclusively devoted to the investigation. Another staffing problem was the lack of specialized training on sexual abuse investigations. The officers assigned to Project Truth were not given any in-depth training on male-on-male historical sexual abuse either before or during the investigation. The importance of proper training, particularly in sexual assault and child sexual abuse cases, cannot be understated. In my view, the OPP failed to properly train the investigators in the conduct of investigations into allegations of sexual abuse, including historical abuse.

As mentioned, the mandate of Project Truth was based on the Fantino Brief and on Ron Leroux's February 1997 statement taken in Orillia. However, the mandate was drafted in a manner that gave the officers some discretion to investigate matters that were related to, but not contained within, these materials. It appears that the mandate was not clearly defined, was applied inconsistently, and was not well understood by non-Project Truth officers or by alleged victims. There were two components to the mandate. The first was to investigate individual allegations of abuse. Throughout Project Truth, questions arose as to whether a particular complainant's allegations fell within the mandate of Project Truth. The second involved an examination of a conspiracy. There was confusion about the scope of Project Truth's mandate among the local OPP detachments and even in the higher ranks of the OPP's command structure.

It is quite striking to me that Chief Superintendent Fougère, a senior official in the OPP at the time of Project Truth, believed the scope of the project to be significantly broader than it was. I am concerned that this may indicate a lack of awareness by senior OPP management of Project Truth's mandate.

Clearly, the mandate of Project Truth was not adequately communicated to, nor understood by, all officers who had direct contact with the project. I recommend that in the future the mandate for special projects be communicated to all OPP officers and, for example, be sent to local detachments and posted

in full view with a contact number to call if there are questions or a need for further information.

No formal protocol was put in place to respond to questions of overlapping jurisdiction between Project Truth and the CPS. The expectation seemed to be that senior officers would work out any overlap or referral questions informally as they arose. A number of CPS officers testified they were unaware of the scope of Project Truth's mandate, and several were uncertain about when they should refer complaints to Project Truth.

Detective Inspector Smith knew that jurisdictional questions were bound to arise and that allegations that did not fit the mandate needed to be referred elsewhere. Unfortunately, these decisions were not always made consistently or promptly and sometimes led to delays in the investigations.

There was little common understanding of the scope of the Project Truth mandate and consequently considerable inconsistency in its application. Initially, Project Truth investigated allegations with no connection to the Fantino Brief in order to prevent complainants from having to split their complaints between police agencies. However, decisions on mandate at times appear to have been made on an arbitrary and ad hoc basis; an allegation against a convenience store owner was taken on, but one against a teacher was not. Where it was determined that a complaint did not fall within the Project Truth mandate, referrals to other police agencies were not always made promptly. Accordingly, I find that the OPP, and Detective Inspectors Smith and Hall, failed to clearly define the Project Truth mandate in a manner that would have provided appropriate direction and structure to the project.

In my view, it may have been more effective for Project Truth to simply investigate all allegations of non-familial, historical sexual abuse involving young people in the Cornwall area, rather than attempting to determine whether a case fell within its mandate based on the position of the alleged perpetrator. I understand that such an approach would have resulted in a significantly larger investigation, probably requiring more resources. That said, a broader mandate would also have had significant benefits. It would have provided a clear structure to the project, been less confusing for complainants, and allowed the investigating officers to examine possible linkages between all suspects.

Detective Inspector Tim Smith and Detective Sergeant Pat Hall had numerous contacts with Constable Dunlop. Many of those encounters involved attempts to obtain the Constable's notes, statements, and other materials relating to his contacts with alleged victims of sexual abuse. Because Constable Dunlop was a police officer at the time of his private investigation, he had a duty to disclose these materials. He also should have recorded these contacts and kept organized notes of his conversations with alleged victims. Issues also arose as a result of comments made in the media by Constable Dunlop and his wife,

Helen, and Constable Dunlop's continuing contacts with alleged victims and their families.

In January 2000, Constable Dunlop was given a written order to draft a comprehensive will-state about his contacts with victims and witnesses and to disclose all relevant materials in his possession. Constable Dunlop had contact with many alleged victims in cases investigated by the OPP. Some of these encounters were problematic, most notably the influence he had on certain individuals, such as C-8, Ron Leroux, and C-18.

Constable Dunlop did not provide the disclosure that was requested by the OPP in a timely manner. Part of this failure is attributable to poor legal advice. It is also partly due to his complete lack of trust in public institutions and his inability to retrieve his own documents in a timely fashion. I understand that Constable Dunlop believed he was wrongly investigated or, in his mind, persecuted by his own police service, but I fail to see how this led to a complete lack of trust in the OPP. Project Truth was put in place as a result of his work and at his request.

Constable Dunlop continued to provide statements to the media despite being served with police orders by his superiors and when he was requested to refrain from doing so by Project Truth officers.

The OPP failed to develop and apply proper practices or protocols to deal with the problems that arose from Constable Dunlop's involvement in the Project Truth investigation and, in particular, some of the problems created by his lack of cooperation. The OPP should have done more to obtain full disclosure from Constable Dunlop more expeditiously. With regard to his contact with plaintiffs and witnesses, the OPP needed to track these contacts and develop a plan to minimize exposure from them.

The OPP should not have waited until disclosure issues arose in the Marcel Lalonde trial in the fall of 1999. The police force should have acted immediately after Constable Dunlop refused to sign the release in 1998.

I am cognizant that the OPP lacked jurisdiction and that the CPS was required to issue the orders, but the OPP had to fully inform the CPS of the problems. I do not think the CPS was fully aware of the extent of Constable Dunlop's interference in the OPP investigations and prosecutions. The OPP needed to communicate better with the CPS.

Project Truth Investigation of Father Charles MacDonald

On March 11, 1996, Father Charles MacDonald was arrested in relation to allegations of abuse made by David Silmser, John MacDonald, and C-3. After the arrest, a number of new allegations were made against Father MacDonald. C-8

came forward to the OPP in January 1997, and the Fantino Brief included a number of allegations about abuse perpetrated by Father MacDonald.

Detective Constable Joe Dupuis was assigned as the lead investigator on the Father MacDonald investigation. In early September 1997, he did not have a copy of the earlier investigation into Father MacDonald. Detective Constable Dupuis did not have an opportunity to review the file when he was initially assigned to this investigation. He was not aware of the status of earlier charges against Father MacDonald, including the fact that the preliminary inquiry had been adjourned in February 1997 because of allegations by a new complainant, C-8, and that it had resumed in early September and been completed.

Detective Constable Dupuis' principal role was to deal with the new allegations against Father MacDonald. He was not involved with the prior counts that were already before the court. That was Detective Constable Fagan's investigation. Detective Constable Dupuis testified that he remembers receiving the file from Detective Constable Fagan but he could not recall when this occurred. On November 26, 1998, Detective Constable Dupuis met with Detective Constable Fagan. This was more than one year after Detective Constable Dupuis was assigned this investigation.

According to Detective Inspector Hall, the OPP recognized the need to fast-track the Father MacDonald case because it was an ongoing matter before the court. Detective Inspector Hall explained that the Father MacDonald case was the "highest priority" and that he recognized the need to ensure they did not get into trouble with *Charter* delays. Yet no interviews were conducted until September 1997. Detective Constable Dupuis was the lead investigator assigned to this case, even though he did not join the Project Truth team until September 1997.

I question why Detective Constable Dupuis was assigned as the lead investigator. It might have been more appropriate to assign either Detective Constable Steve Seguin or Detective Constable Don Genier to the file given that by September 1997, they had been involved with Project Truth for several months and were familiar with the allegations contained in the Fantino Brief. In contrast, Detective Constable Dupuis was unfamiliar with the new allegations and with the charges against Father MacDonald that were making their way through the court system at that time.

Detective Inspector Hall explained that the delay was due to several factors: Project Truth was not set up until August 1997; the officers were still dissecting the Fantino Brief; and the team was dealing with allegations made by Claude Marleau. Detective Inspector Hall also said that one of the interviews relating to the Father MacDonald case was conducted in Edmonton and it was delayed in order to coordinate the interview with a trip for a separate investigation in the

Northwest Territories in which Detective Inspector Hall was involved. I find these reasons insufficient. I also find it problematic that Detective Constable Dupuis did not have the entire file regarding the previous investigation on Father MacDonald when he was initially assigned to the investigation and that there was some delay in getting this to him.

Detective Constables Dupuis and Seguin took a videotaped statement of C-4 on October 28, 1997. C-4 told the officers that he had been sexually abused by Father MacDonald at a cottage in Egansville when he was approximately seventeen years old. Another alleged victim interviewed by the Project Truth officers in the fall of 1997 was Robert Renshaw. Mr. Renshaw alleged that Ken Seguin had abused him over a considerable period, during some of which Mr. Seguin was his probation officer. He also alleged abuse by Father MacDonald.

Another alleged victim, Kevin Upper, gave the OPP a videotaped statement regarding his allegations against Father MacDonald on October 3, 1997. Mr. Upper told Detective Constables Seguin and Dupuis that he had been an altar boy at St. Columban's Church for several years, during which time there was an incident when Father MacDonald sexually molested him. Another alleged victim, C-5, was interviewed by the OPP on September 30, 1997. He disclosed abuse by Father Charles MacDonald while in confession at his school.

The Crown brief based on the fall 1997 Project Truth investigation was provided to Robert Pelletier on January 6, 1998. The Crown recommended a number of charges be laid against Father MacDonald in relation to the complainants discussed above as well as C-8. An information was sworn on January 26, 1998.

The OPP became aware in late 1998 and early 1999 of letters written by Father MacDonald to alleged and potential alleged victims. Detective Constable Dupuis acknowledged that he should have looked into this further and found out if there was in fact a restraining order. I agree. Father MacDonald had been released on conditions not to contact complainants. He should have investigated further to determine if Father MacDonald had breached release conditions or attempted to obstruct justice.

The preliminary inquiry began in March 1999. On May 3, 1999, Father MacDonald was committed to stand trial on all counts.

In early 2000, the OPP became aware of another individual alleging he had been abused by Father MacDonald. Detective Constable Dupuis interviewed C-2 on January 21, 2000. Charges were laid against Father MacDonald in respect of C-2's allegations on April 10, 2000. The initial trial date was adjourned and the preliminary inquiry on C-2's counts was completed on August 30, 2000. An indictment for all the charges, including those related to C-2, was prepared on October 18, 2000.

In April 2002, defence counsel filed an application to stay the proceedings against Father MacDonald based on unreasonable delay. On May 13, 2002, all the charges were stayed. Detective Constable Dupuis testified that he thought the Father MacDonald case had been moving too slowly and that he had discussed this with other constables, who felt the same way. However, according to Detective Constable Dupuis there was no concern among the officers that there would be a delay argument made by defence prior to the stay application.

Detective Inspector Hall thought that the principal reason for the adjournment of the trial in May 2000 was the laying of additional charges in respect of C-2's allegations and joining them with existing charges to be prosecuted at the same time. Detective Inspector Hall explained that if Project Truth had heard about C-2's allegations in 1998 when he first spoke to Constable Dunlop, they would have been investigated at that time and charges would have been laid in 1998 rather than 2000. He acknowledged, however, that even without the C-2 allegations other problems necessitated an adjournment in 2000, such as the further disclosure by Constable Dunlop.

Investigation of Death Threats

Ron Leroux swore an affidavit that was included in the brief given to Chief Fantino in December 1996. In the affidavit, he claimed to have overheard death threats made against Constable Dunlop and his family by Malcolm MacDonald, Father Charles MacDonald, and Ken Seguin, at Mr. Seguin's residence in or around November 1993. Mr. Leroux repeated these claims during his statement at the OPP Orillia Detachment in February 1997. Detective Sergeant Pat Hall was assigned to investigate these allegations in March 1997. The Crown brief was completed on August 19, 1998, and Crown Attorney Robert Pelletier provided his written opinion on December 22, 1998. Detective Sergeant Hall concluded that there were no reasonable and probable grounds to lay charges and, after reviewing the brief, Mr. Pelletier agreed.

On July 30, 1997, David Silmser contacted the Prescott Detachment of the OPP and informed them that he was also the target of death threats.

There is little doubt that the death threats investigation moved significantly down Detective Sergeant Hall's priority list following the initiation of Project Truth. To some extent, this response was appropriate given the heavy workload shouldered by him and the other Project Truth investigators. There were reasons to doubt the seriousness of the allegations, including the delay in bringing them to the attention of the police, the unwillingness of the alleged main target of the threats (Constable Dunlop) to participate in the investigation, and the credibility issues surrounding the case's only witness, Mr. Leroux. I find that although

Detective Sergeant Hall investigated these allegations thoroughly, he failed to do so in a timely manner.

Investigations of Complaints of Claude Marleau and C-96

In late July 1997, Claude Marleau learned of the Project Truth investigation. He called C-96, and the two decided to come forward to the OPP with their allegations. The fact that Mr. Marleau and C-96 decided to contact the OPP after reading a newspaper article about Project Truth is one example of the positive impact broad media coverage can have.

Detective Constable Don Genier spoke with Mr. Marleau on July 28, 1997. Mr. Marleau said that he had been abused by eight men and stated that the abuse occurred when he was between ten and sixteen years old. He also identified other potential victims: C-96, C-110, C-95, and another individual.

Mr. Marleau and C-96 met with Project Truth on July 31, 1997 and were interviewed separately. Mr. Marleau's statement was taken by Detective Constable Genier. He identified Roch Landry, Father Paul Lapierre, Father Donald Scott, Father Ken Martin, George Sandford Lawrence, Dr. Arthur Peachey, and Laurent Benoît as his alleged abusers. There was another alleged abuser whose name Mr. Marleau could not recall but whom he described as the priest in charge of the parish in Ingleside.

According to Detective Inspector Hall, the allegations of C-96 and Mr. Marleau were a significant development for Project Truth, particularly because they did not come from Constable Perry Dunlop's materials. The Claude Marleau and C-96 complaints increased the number of suspects under investigation.

It is important to note that at Mr. Marleau's first interview with Project Truth, Detective Constable Genier advised him that he would prefer to conduct the interview in English. Mr. Marleau testified that he would have liked to have spoken in French but acknowledged that he never told this to Detective Constable Genier. Mr. Marleau contends that he would have been able to give better descriptions and would have been able to more easily express his emotions in French. C-96's interview was also conducted in English. Detective Inspector Hall stated that Detective Constable Genier was the only person on the Project Truth team who spoke French fluently.

I find it unfortunate that only one bilingual officer and no bilingual administrative staff were assigned to this investigation, despite the fact that it was taking place in a bilingual community. Efforts must be made to ensure complainants are comfortable, and this includes conducting the interview in the language in which the alleged victim is most comfortable. The choice of language should be left with the complainant.

After providing his statement to the OPP, Mr. Marleau contacted Detective Constable Genier and told him that he had forgotten to address one incident of

abuse. On September 3, 1997, a second interview was held, and Mr. Marleau described an incident in which he alleged that he had been jointly abused in Montreal by Father Paul Lapierre and a priest whom Mr. Marleau identified as Father Gilles Deslauriers.

On October 19, 1998, Mr. Marleau told Detective Constable Genier that he believed it was another priest and not Father Deslauriers who had abused him in Montreal. Mr. Marleau had determined that the priest who presided over the wedding of a relative was the person who had allegedly abused him. Detective Constable Genier attended Nativity Church and asked for information about the wedding of Mr. Marleau's relative. He learned that the priest at this wedding was Father René Dubé. Detective Constable Genier went to Quebec City in order to have Mr. Marleau identify his alleged perpetrator in a photo line-up. Mr. Marleau selected the picture of Father René Dubé.

The allegations about the incident involving Father Dubé and Father Paul Lapierre were later turned over to police in Quebec.

The Project Truth officers prepared Crown briefs for complaints against Mr. Landry, Father Paul Lapierre, Father Martin, George Sandford Lawrence, Dr. Peachey, and Harvey Latour. The other suspects identified by Mr. Marleau and C-96 either were dead or the allegations against them had been turned over to Quebec police.

Crown Attorney Robert Pelletier received these briefs on April 1 and 3, 1998. On May 7, 1998, he provided Detective Inspector Smith with an opinion on the allegations, noting that Mr. Marleau was not "challenged specifically on the issue of consent" in his statements, although "the general tenor of Marleau's statement is such that he was not a fully willing participant." Crown Pelletier further stated that Mr. Marleau should be advised of the difficulties with the prosecutions in order to obtain his fully informed view on the matter.

After receiving the Crown opinion, Detective Constable Seguin contacted Mr. Marleau more than once and asked him questions relating to the Crown's concerns about consent, particularly in relation to Dr. Peachey and Father Martin. According to Mr. Marleau, Detective Constable Seguin was interested in consent in a very narrow and technical sense rather than looking at the broader relationship he had had with his alleged abusers.

According to Mr. Marleau, not many people at the trial understood that the events at age seventeen were connected to the events at age eleven; it was for him a connected chain of events. It appears that Mr. Marleau was trying to explain that the connection between these events undermined any appearance of consent.

As I have noted, Detective Constable Seguin did not have specific training on sexual abuse. Such training would have helped him understand how victims can be groomed, thus making them appear to agree to acts of abuse when in

reality their consent is vitiated by the psychological or financial manipulation employed by their abusers. In hindsight, had Detective Constable Seguin understood this principle, he would have been able to ask more targeted questions in order to obtain evidence of grooming and undermined consent. This incident underscores the need for officers to be properly trained on sexual abuse and to have this training updated periodically.

Mr. Marleau and C-96 first gave statements in July 1997. The Crown briefs were submitted in April 1998, and a Crown opinion followed in early May 1998. However, no charges were laid until July 1998. The Project Truth officers advised Mr. Marleau that there were problems in assigning a Crown because the local Crown had a conflict of interest. It had been decided that local Crown Attorney Murray MacDonald would not take on Project Truth prosecutions because of the allegations that were made against him in the Fantino Brief.

The only conviction obtained based on the allegations of Mr. Marleau and C-96 was Father Paul Lapierre; he was found guilty by a court in Quebec and sentenced to twelve months imprisonment followed by a period of probation of three years. Father Dubé was acquitted of the charges in Quebec.

In Ontario, Father Lapierre was found not guilty of the charges laid by the OPP. Mr. Latour, Mr. Lawrence, and Father Martin were also acquitted of the charges against them. Mr. Landry and Dr. Peachey died before their trials, and consequently, the charges against them were withdrawn.

Investigation of Richard Hickerson

Richard Hickerson worked as an employment counsellor for Canada Manpower. He had frequent interactions with probation officers Ken Seguin and Nelson Barque because he was often asked to help individuals on probation and parole find work. Mr. Hickerson also volunteered at the École Musica in Cornwall, where he acted as a “coach” for violin students.

On October 7, 1997, C-11 contacted Detective Constable Joe Dupuis to make a complaint regarding Mr. Hickerson. When C-11 was twelve or thirteen years old and in grade 8, he took music lessons at École Musica. C-11 alleged that during coaching sessions, Mr. Hickerson sexually abused him repeatedly over several years. C-11 also alleged that Mr. Hickerson had “an extensive pornography collection, ... including child pornography.”

A second complainant, Keith Ouellette, came to the attention of Project Truth on October 10, 1997. Mr. Ouellette was interviewed by Detective Constables Dupuis and Steve Seguin on October 30, 1997. He told the officers that Ken Seguin was his probation officer when he was around eighteen or nineteen years old. Mr. Ouellette said that Mr. Seguin sent him to Canada Manpower to see Mr. Hickerson, who had sexually abused him on multiple occasions.

The OPP also learned from C-90 that Robert Sheets might have been a victim of Mr. Hickerson. Detective Constable Genier took a statement from Mr. Sheets on June 2, 1998. Mr. Sheets alleged that Mr. Hickerson and Mr. Barque sexually abused him. Mr. Sheets also referred to Mr. Hickerson's collection of pornography, alleging that Mr. Hickerson made him watch male homosexual pornographic movies.

On June 11, 1998, Detective Constables Genier and Dupuis took a cautioned statement from Mr. Hickerson. Mr. Hickerson admitted to having had a sexual relationship with C-11 and also acknowledged a "sexual incident" with an altar boy when he was still a priest.

Mr. Hickerson committed suicide on June 19, 1998. I am concerned that the OPP did not take steps to interview Mr. Hickerson, or search his residence, in the fall of 1997 after C-11 and Mr. Ouellette made complaints. It is also clear that the OPP could have done more to pursue the allegations of possession of child pornography. I am also concerned by the almost month-long delay between obtaining Mr. Hickerson's inculpatory statement and the scheduled date for his arrest.

Project Truth Investigation of Nelson Barque

The OPP's second investigation of Mr. Barque began in 1997 as part of Project Truth. On January 27, 1997, Detective Constable Genier received a call from C-45, who made allegations against Ken Seguin, Mr. Barque, and Marcel Lalonde.

Project Truth learned of another possible victim, Robert Sheets. Detective Constable Genier took a statement from Mr. Sheets. Mr. Sheets alleged that both Mr. Barque and Richard Hickerson had sexually abused him. Initially, Mr. Seguin was Mr. Sheets' probation officer, but Mr. Barque became his probation officer in January 1982.

Mr. Barque provided Detective Constables Genier and Dupuis with a cautioned statement on June 18, 1998. Mr. Barque admitted that he had engaged in sexual activities with Mr. Sheets when he was a probationer and estimated that these took place over one to one and one-half years. Mr. Barque also admitted to having a sexual relationship with C-44 and Mr. Albert Roy.

Despite the admissions made in his statement, Mr. Barque was not arrested. Detective Inspector Hall testified that the officers had reasonable and probable grounds for the arrest but the OPP's intention was to arrest Mr. Barque on July 9, 1998, along with several other suspects. However, Mr. Barque committed suicide on June 28, 1998.

I am concerned about the delay in investigating allegations against Mr. Barque from June 1997 onward. He had been convicted of similar charges in 1995, yet little priority seems to have been applied in investigating him again. In my view,

it was inadvisable for Project Truth to delay the arrest of suspects in relation to serious charges involving the sexual abuse of young people, after those suspects made inculpatory statements in cautioned interviews.

Investigation and Prosecution of Jacques Leduc

Allegations about sexual abuse against Cornwall lawyer Jacques Leduc surfaced in April 1998. The first alleged victim to come forward was C-16. A report was made on April 8, 1998, to Detective Constable Verne Gilkes in the Hawkesbury Detachment by a friend of C-16's family. C-16, who was twenty-one years old, was interviewed by Constable Charlene Davidson at the Lancaster Detachment on May 7, 1998.

Project Truth took over the investigation into C-16's allegations. Detective Constable Dupuis, the lead investigator on the case, and Detective Constable Steve Seguin conducted a videotaped interview on May 11, 1998. In this statement, C-16 stated that he began working for Mr. Leduc when he was thirteen years old. He said the abuse started less than a year later and continued until he was about eighteen or nineteen years old. C-16 told the officers about other young people who had worked for Mr. Leduc, in particular C-23, C-17, and another individual.

Detective Constables Seguin and Dupuis interviewed C-17 on May 13, 1998. At the time, C-17 was seventeen years old. He alleged that Mr. Leduc had abused him. Throughout the interview, C-17 had difficulty describing the abuse, in part because of language issues. It is unfortunate that this interview was not conducted in French. As I have discussed, disclosing incidents of sexual abuse can be extremely stressful for victims, and efforts should be made to ensure they are comfortable. In my view, this should include, at minimum, conducting the interview in the language in which the complainant is most at ease.

The Project Truth officers also took two statements from C-23, on May 25 and July 22, 1998. C-23 told the officers that he had had sexual contact with Mr. Leduc but said that it was consensual. He also said that he and Mr. Leduc engaged in sexual acts with another individual, C-22. The officers later interviewed C-22 and Mr. Leduc was eventually charged in relation to allegations made by him.

On June 15, 1998, Detective Constable Dupuis visited C-16's home to pick up a videotape dealing with victim support. C-16's mother advised him that she had received a call from Constable Dunlop, who wanted to know how the investigation was proceeding. Detective Constable Dupuis told her not to discuss anything with Constable Dunlop during the investigation. He did not ask her any questions about the phone call or whether she had any previous contact with Constable Dunlop.

During the week of June 15, 1998, Detective Inspector Smith and Detective Sergeant Hall discussed the contact between Constable Dunlop and C-16's mother, and they met with Constable Dunlop on July 23, 1998. Detective Inspector Smith discussed the call with C-16's mother because he had previously asked Constable Dunlop not to contact victims or witnesses.

Neither Detective Inspector Smith nor Detective Sergeant Hall made a note about the contact between Constable Dunlop and C-16's mother either after hearing about it from Detective Constable Dupuis or during the meeting with Constable Dunlop. Given their concerns about Constable Dunlop's contacts with witnesses, something should have been noted.

On June 2, 1998, Detective Constables Dupuis and Seguin went to C-22's house and asked him to provide a statement. C-22 suggested that something had occurred while he was working for Mr. Leduc but said he "did not want to talk about it, did not want his name in the paper, or want to go to court."

A person came out of C-22's house and made it clear to the officers that C-22 did not want to speak to the police and that he was dealing with it himself. The officers told this individual that if C-22 would not talk to them, they would subpoena him to appear in court. Detective Constable Dupuis acknowledged during his evidence at the Inquiry that he should not have told an alleged victim that he would be subpoenaed. Detective Constable Seguin admitted that there "could have been a better way of delivering" that message. It is, of course, not appropriate to threaten a reluctant alleged victim with a subpoena.

Mr. Leduc was arrested on June 22, 1998, and charged with six counts in respect of allegations by C-16 and C-17. He was released on bail subject to a condition that he was not to be alone with any males under the age of eighteen. He was also not to communicate with the alleged victims and their families, or with C-23 and his family. An additional six charges were laid against Mr. Leduc on July 17, 1998, and he was charged with four counts relating to allegations by C-22 on March 11, 1999.

Crown Attorney Shelley Hallett was assigned to prosecute the case in July 1998. Detective Constables Dupuis and Seguin assisted Crown Hallett at the trial. C-16's mother was called as a witness by the Crown.

A number of documents in Project Truth's possession mention the contacts between C-16's mother and Constable Dunlop. Detective Constable Dupuis had a note of the June 15, 1998 incident. The two conversations with C-16's mother were also mentioned in notes disclosed by Constable Dunlop to Project Truth on March 14, 2000. Also, in a will-state given to Project Truth in April 2000, Constable Dunlop made two references to his contacts with C-16's mother. He refers to the May 8, 1998, conversation and to the July 23, 1998, meeting at

which Detective Inspector Smith, Detective Sergeant Hall, and Inspector Trew discussed his contacts with C-16's mother. None of these had been disclosed to the defence prior to C-16's mother's testimony. Detective Constable Seguin and Detective Inspector Hall both testified that while defence counsel was questioning the police about not having disclosed this material, Ms Hallett said something to the effect of, "This is news to me." Detective Inspector Hall interpreted this comment to mean that she did not have any knowledge about C-16's mother's contact with Constable Dunlop. He testified that he had difficulty understanding this comment because he believed that Ms Hallett had gone through Constable Dunlop's will-state after Project Truth received it in April 2000, so he "couldn't see how she didn't know about that."

Detective Inspector Hall said that he did not tell defence counsel that Ms Hallett had been provided with the Dunlop material in April 2000 because he was not in court that morning and was unsure of what had been said. He also did not want to embarrass Ms Hallett in the presence of the defence lawyers. The officers left the meeting with the impression that defence counsel believed the police had not disclosed the Dunlop material to the Crown.

Ms Hallett acknowledged saying something like, "This is news to me," but testified that she was referring to a meeting between Detective Inspector Smith, Detective Sergeant Hall, and Constable Dunlop on July 23, 1998, and not to the existence of the Dunlop material.

After the meeting with defence counsel, Detective Inspector Hall told Ms Hallett that she did in fact have the Dunlop material in her possession, to which Ms Hallett said something to the effect of, "Yeah, yeah, yeah, I know." Detective Inspector Hall interpreted this as an acknowledgment that what she had said earlier, in the presence of defence counsel, was inaccurate. Detective Inspector Hall took the position that Ms Hallett lied during the meeting with defence counsel on February 7, 2001. He acknowledged, however, that his notes of the meeting do not reflect that belief and that he did not confront Ms Hallett about this perceived lie. Detective Inspector Hall was understandably upset by defence counsel's accusation of wilful non-disclosure. He felt Ms Hallett was attempting to deflect blame for the failure to disclose onto the OPP officers. In my view, however, Detective Inspector Hall's belief was the result of a misunderstanding during the meeting with defence counsel as to what Ms Hallett was referring to when she said, "This is news to me."

It is clear that the Crown and the OPP were not functioning as a team to address the defence's accusation of wilful non-disclosure. They failed to develop a coordinated strategy to deal with this issue.

On February 14, 2001, Mr. Leduc's defence counsel declared their intention to bring a motion for a stay of proceedings on the basis of deliberate non-disclosure

by the police. Ms Hallett made submissions to the Court in order to “contextualize” the application framed by defence counsel. She indicated that she, too, was surprised by the evidence of C-16’s mother about her contact with Constable Dunlop. In these submissions, Crown Hallett was clearly defending the police, arguing that the non-disclosure was inadvertent. Ms Hallett also made submissions to the Court about the fact that she had received and reviewed the Dunlop material. Ms Hallett took responsibility for the fact that she had reviewed the Dunlop materials and that she had not determined them to be relevant to the defence in the Leduc matter. If the Project Truth officers were not initially advised of the Crown strategy, it should have become evident to them at this point.

The stay application began on February 19, 2001. Retired Detective Inspector Smith was subpoenaed to testify for the defence on the stay application. Ms Hallett did not know what the defence sought to ask him, and so Detective Inspector Smith, who knew defence counsel Steven Skurka from a previous trial, told Ms Hallett he would ask Mr. Skurka what he wanted. Ms Hallett was aware that Detective Inspectors Smith and Hall and Detective Constable Dupuis went to speak with defence counsel. Although she thought this unusual, she did not object.

Detective Inspector Hall could not find a copy of the July 4, 2000, letter at the Long Sault Detachment, so he called Detective Constable Dupuis, who also could not find the letter. Detective Inspector Hall instructed him to obtain a copy from Ms Hallett and take it to defence counsel. He did not instruct Detective Constable Dupuis to advise Crown Hallett why he needed the letter.

Ms Hallett gave the letter to Detective Constables Dupuis and Seguin. They did not advise her that they intended to provide this document to defence counsel. Detective Constable Dupuis acknowledged that the direct delivery of a document by a police officer to defence counsel was highly unusual unless it was done pursuant to Crown instruction.

Detective Inspector Hall agreed that it is not the role of police officers to provide disclosure but rather the role of the Crown. According to Detective Inspector Hall, the primary reason he turned the document over to defence counsel was because he was going to be questioned under oath the next morning. He thought giving the document directly to the defence without going through the Crown was the appropriate thing to do because he believed Crown Hallett had lied to defence counsel on February 7, 2001. Detective Inspector Hall acknowledged that in hindsight he could have advised Ms Hallett that he was giving the letter to the defence. It is clear to me that Detective Inspector Hall lost sight of his professional duties and the ultimate goal of successfully bringing the matter to a trial on the merits.

The Project Truth investigators did inadvertently fail to disclose their knowledge of contacts between Constable Dunlop and C-16’s mother, and the Crown

inadvertently failed to disclose the relevant notes and will-state from Constable Dunlop to Mr. Leduc's defence counsel.

Detective Inspector Hall decided to disclose the letter directly to the defence, after Ms Hallett had admitted in open court that she had reviewed the Dunlop material. Ms Hallett's "lie" was the key motivation for Detective Inspector Hall's actions, yet he did not bother to check whether his concern had been corrected before making his own disclosure decisions.

I find that Detective Inspector Hall failed in his professional duties by providing documentation directly to defence counsel without consulting the Crown attorney and by failing to advise the Crown that such disclosure had been made.

I reiterate the point that if Detective Inspector Hall had a concern with Crown Hallett's approach after raising the matter with her, or if he felt that he could not have raised the matter with her, he should have brought the issue to the attention of his superiors so that they could discuss it with her superiors.

On February 21, 2001, the stay application proceeded. On March 1, 2001, Justice Chadwick granted the stay of proceedings. Justice Chadwick found that the July 4, 2000, letter showed that the Crown had reviewed the Dunlop materials in more than just a cursory manner. He determined that the materials should have been disclosed and that the Crown's failure to do so was wilful.

Detective Inspector Hall acknowledged that it appeared that the July 4, 2000, letter and the fact that it was disclosed by the police rather than the Crown were relevant to Justice Chadwick. The Ontario Court of Appeal decision that overturned Justice Chadwick's decision stated that the July 4 letter, both its contents and the circumstances of its disclosure, were the "crucial plank" on which Justice Chadwick's findings rested. It is sufficient to note here that the Court of Appeal went on to find that "not only did Ms Hallett not suppress the letter, she had no reason to disclose it."²⁵

Even if Detective Inspector Hall was justified in his view that Ms Hallett was less than candid in the meeting, his response was unnecessary and unprofessional. It was also irresponsible and, in my view, ultimately contributed to the stay of proceedings in this case.

While Justice Chadwick's decision was pending appeal, Jacques Leduc's wife contacted C-22 and asked him to meet her. On August 8, 2001, Detective Constable Dupuis received a call from a friend of C-22, who advised him of this fact. Detective Constable Dupuis called Detective Inspector Hall and they discussed the implications of Mr. Leduc's wife meeting with C-22 to talk about

25. Justice Chadwick's decision to stay the proceedings in *R. v. Leduc* was appealed by the Crown and overturned by the Court of Appeal in July 2003. The Supreme Court of Canada denied Mr. Leduc's request for leave to appeal in January 2004.

his allegations. Detective Constable Dupuis then spoke with C-22, who expressed concerns for his safety and said there was no reason provided for the meeting. Detective Constable Dupuis advised C-22 not to attend. Detective Constable Dupuis told C-22 that meeting with Mr. Leduc's wife could cause issues at a new trial if the appeal was successful.

This was certainly questionable behaviour from the wife of a suspect, particularly in light of the fact that one of the conditions of Mr. Leduc's release after his arrest was that he not communicate with the complainants. Ms Leduc's contact with C-22 could be seen as a violation of the conditions of release if she was attempting to speak to C-22 on Mr. Leduc's behalf. Her attempt to contact C-22 may also have been an attempt to obstruct justice. In my view, the OPP should have taken the opportunity to question Ms Leduc about her actions and her motives. The officers also should have informed the responsible Crown prosecutor of this incident in the event that it came up at a new trial.

Investigation of Malcolm MacDonald for Sexual Abuse

Cornwall lawyer Malcolm MacDonald had many ties to the allegations investigated by Project Truth. He was a central figure in the Fantino Brief, which contained numerous allegations of abuse perpetrated by him. Moreover, Mr. MacDonald represented Father Charles MacDonald in the settlement, and he had pleaded guilty to attempt to obstruct justice in relation to that matter in 1995. Detective Inspector Tim Smith also would have been aware, from his 1994 investigation, that Malcolm MacDonald was linked to Ken Seguin and Father MacDonald as both a lawyer and a friend. In addition, Malcolm MacDonald was alleged to have made death threats against Constable Perry Dunlop and his family.

Project Truth investigated Malcolm MacDonald both as an alleged perpetrator of sexual abuse and as part of its death threats and conspiracy investigations. The officers investigated sexual assault complaints made by three individuals against Mr. MacDonald, and he was arrested and charged in relation to two of the complaints. He died before he could be tried for these offences.

On June 8, 1998, Detective Constables Genier and Dupuis took cautioned statements from Malcolm MacDonald relating to allegations made by C-5 and C-10. On March 11, 1999, Mr. MacDonald was charged with indecent assault and gross indecency in relation to C-5, and with indecent assault against C-10. Mr. MacDonald died in Fort Lauderdale, Florida, on December 23, 1999, and on January 11, 2000, the Crown withdrew all charges against him.

I do not find the delay in investigating this matter unreasonable in the circumstances. It is unfortunate that Mr. MacDonald was not charged until March 11, 1999, but that was in large part due to the delay in obtaining an opinion from the Crown.

Investigation of Jean Luc Leblanc

Jean Luc Leblanc was convicted in 1986 of gross indecency relating to the molestation of young boys. He received a suspended sentence and was placed on probation for three years.

Vivian Burgess contacted the CPS in August 1998 and notified it that Mr. Leblanc had been seen with young boys between the ages of eight and twelve in and around Cornwall. Mr. Leblanc had been charged twelve years earlier of sexually abusing her two sons, and Ms Burgess was very concerned that he might “be continuing his behaviour of the past.”

On September 10, 1998, Constable George Tyo of the Cornwall police contacted Detective Sergeant Randy Millar of the OPP Lancaster Detachment and advised him of the complaint from Ms Burgess. Constable Tyo provided Detective Sergeant Millar with the OMPPAC number related to the complaint and further advised that Mr. Leblanc was living in a small town in OPP jurisdiction. The OPP took no action. Detective Sergeant Millar did not direct any of his officers to investigate Mr. Leblanc, and Ms Burgess was not contacted to see if she had any additional information.

Detective Inspector Millar testified that his plan was to set up surveillance on Mr. Leblanc but that no steps were taken because he lacked the officers. I accept his evidence that he had repeatedly made his supervisors aware of the lack of resources. However, as Detective Inspector Millar admits, he never asked for resources specifically to deal with the Jean Luc Leblanc matter.

I find that the failure to respond to the information relating to Mr. Leblanc can be attributed first to the lack of resources available at the Lancaster Detachment but also, and importantly, to a failure to recognize the dangers of a convicted sexual offender associating with children. There was sufficient awareness of those dangers in 1998 that the report about Mr. Leblanc should have been given higher priority. Notwithstanding the serious resource constraints he was operating under, I find that Detective Sergeant Millar could and should have taken some action in relation to the information received from CPS about Mr. Leblanc.

Mr. Leblanc first came to the attention of Project Truth officers on December 15, 1998, during the Malcolm MacDonald investigation. A witness indicated that C-21 had been abused by Mr. Leblanc as well as by Mr. MacDonald. Detective Constable Steve Seguin was assigned to be the lead investigator into the allegations against Mr. Leblanc. On December 16, 1998, Detective Constables Seguin and Genier interviewed C-21. He alleged that Mr. Leblanc had abused him on many occasions approximately ten to fifteen years before, when he was between the ages of eleven and fifteen.

On December 29, 1998, Detective Constable Dupuis observed Mr. Leblanc in his car with a young person who was approximately fourteen years old. The officer followed the vehicle until it went down a dead-end road. When the vehicle came back, the youth was no longer with Mr. Leblanc. Detective Constable Seguin located the boy, C-82, the next day. Detective Constables Seguin and Dupuis interviewed C-82. Although initially afraid to disclose the abuse, C-82 eventually confirmed that Mr. Leblanc had sexually assaulted him. Detective Constable Dupuis informed Detective Sergeant Hall of C-82's allegations the next morning, on December 31, 1998.

Detective Sergeant Hall contacted Detective Inspector Smith to discuss the issue. Detective Inspector Smith decided not to arrest Mr. Leblanc immediately. The officers agreed that in retrospect, they should have done so. In my view, Detective Constables Dupuis or Seguin should have contacted Detective Sergeant Hall on December 30, immediately following the interview with C-82. This would have permitted Detective Sergeant Hall or Detective Inspector Smith to confirm the arrest for that evening or the next morning.

On January 4, 1999, Detective Sergeant Hall contacted Richard Abell of the Children's Aid Society. Detective Sergeant Hall informed Mr. Abell that Mr. Leblanc would be arrested the following day and gave him the names of the victims, C-21 and C-82, as well as other information about the families and the offences. Detective Constables Seguin and Genier arrested Mr. Leblanc on January 5, 1999. Mr. Leblanc was charged with twelve counts relating to the alleged sexual abuse of C-21 and C-82.

It is noteworthy that CAS was not contacted by the Project Truth team when the OPP officers first learned of allegations against Mr. Leblanc. Nor were they contacted by Detective Sergeant Millar when he learned of concerns in September 1998. This lack of coordination and cooperation is troublesome.

In its submissions to this Inquiry, the OPP emphasized the need for a standardized protocol that would provide for consistent roles for the CAS and the police in sexual abuse investigations, including historical sexual abuse investigations. I endorse the development of such a protocol.

Project Truth had also discovered a number of new alleged victims of Mr. Leblanc. One was Cindy Burgess-Lebrun, the sister of Jody Burgess, whom Mr. Leblanc was convicted of molesting in 1986. On March 11, 1999, Project Truth officers arrested Mr. Leblanc on sixteen counts of sexual offences in relation to six additional alleged victims. On March 12, Detective Inspector Hall contacted Mr. Abell and informed him of these additional victims and charges.

In an interview on April 12, 1999, C-81 disclosed that he also had been abused by Mr. Leblanc.

In November 1999, Detective Constable Dupuis was contacted by Jason Tyo, whom Mr. Leblanc had been convicted of abusing in 1986. Mr. Tyo informed Detective Constable Dupuis that the abuse had continued after Mr. Leblanc's initial conviction. Additional charges were laid against Mr. Leblanc on April 7, 2000, for these allegations. In total, fifty-one charges were laid against Mr. Leblanc in relation to thirteen victims.

On March 26 and June 7, 2001, Mr. Leblanc pleaded guilty to eighteen of the fifty-one charges. On April 22, 2002, Mr. Leblanc was declared a long-term offender.

Investigations of Complaints of Ron Leroux and C-15

Mr. Leroux made claims of abuse against Bishop Eugène LaRocque, Monsignor Donald McDougald, Father Bernard Cameron, Father Gary Ostler, and Father Kevin Maloney. In addition, the Fantino Brief contained a statement from C-15, who alleged that he had been abused by Father Maloney.

In 1996 and 1997 Mr. Leroux provided a number of statements to Constable Dunlop and his lawyer, Charles Bourgeois. He also provided an affidavit in support of Constable Dunlop's lawsuit against the CPS, the Diocese, and others. An affidavit dated November 13, 1996, and a statement dated December 4, 1996, were included in the Fantino Brief.

Mr. Leroux was interviewed by OPP officers in Orillia on February 7, 1997, in the presence of Mr. Bourgeois. He was also interviewed by Detective Sergeant Hall and Detective Constable Genier on November 25, 1997.

There are some significant discrepancies between these numerous statements, which may have affected the OPP's assessment of Mr. Leroux's credibility. Further, Detective Inspector Hall testified that when he met with Mr. Leroux, he was able to assess his demeanour and did not find him to be credible.

Mr. Leroux alleged that he had been abused during confession while he was a student at St. Columban's Boys' School. At first he named only Father "McDougal" or "McDougald" as the alleged perpetrator, but in later statements he claimed to have experienced similar abuse at the hands of Father Cameron. Both Monsignor McDougald and Father Cameron were interviewed by the OPP but neither was asked about hearing confessions at St. Columban's.

While it may be that the officers did not put much weight on Mr. Leroux's statements given the important discrepancies within them, it would have been wise to do a comprehensive interview of the suspects. They should have probed Monsignor McDougald about the confessions he heard at St. Columban's Boys' School and ascertained whether Father Cameron ever heard confession at the school during the relevant period.

Detective Inspector Hall testified that he did not find Mr. Leroux to be credible and that the other officers shared this opinion. This affected his subjective belief

in the allegations, and he testified that he was not able to form reasonable and probable grounds to lay charges.

The Fantino Brief contained a second allegation of abuse against Father Maloney. C-15 alleged that between 1975 and 1979, he was abused by Father Maloney while he was a student at the “Alfred Boy’s School,” formally known as St. Joseph’s Training School for Boys. C-15 said that Father Maloney was not a regular priest there but filled in when other priests were sick.

Detective Constable Steve Seguin was the lead investigator on this complaint. He testified that he found no corroborating evidence for C-15’s complaint. Thus, he was not able to form reasonable and probable grounds to lay charges against Father Maloney.

Investigation of Brian Dufour

On September 17, 1997, C-97 provided Detective Constables Steve Seguin and Joe Dupuis with a statement alleging that he had been abused by Brian Dufour.

C-97 told the OPP that Mr. Dufour was a childcare worker at the Cornwall Youth Residence (known today as Laurencrest) and that Mr. Dufour had sexually abused him on a number of occasions when he was a resident. He also claimed that Mr. Dufour had sexually abused him when he was out on a day pass from a prison drug treatment facility. C-97 told the officers that he believed that Mr. Dufour was in Brampton, operating a private home for boys.

Detective Constable Seguin was the lead investigator on this matter. In the fall of 1997, he contacted Bryan Harris, a social worker with the Ontario Correctional Institute, who corroborated C-97’s story of being abused while on a day pass from a correctional facility. The officer testified that he did not know Mr. Dufour’s location at that time.

C-97 contacted Detective Constable Seguin on August 19, 1998, to ask how the investigation was proceeding. There is no indication in the officer’s notes or his will-state on the Brian Dufour case of contact with C-97 between October 1997 and August 1998. When Detective Constable Seguin told him that they could not find Mr. Dufour, C-97 gave him the name of someone he believed was Mr. Dufour’s brother-in-law and who might be able to assist in locating the suspect.

It appears that Detective Constable Seguin did not follow this lead until eleven months later, on August 4, 1999. He then spoke to the man referred to him by C-97, who said that Mr. Dufour lived in the Hamilton area. Detective Constable Seguin contacted the Hamilton police two days later to request any information they had on Mr. Dufour.

In November 1999, the Hamilton police informed the OPP that Mr. Dufour had been arrested and charged for sexually assaulting an undercover police officer in Hamilton area in 1988.

A Crown brief was submitted on December 17, 1999. The OPP received a recommendation from the Crown to proceed with charges on April 3, 2000, and Mr. Dufour was arrested on April 6, 2000. He died a few days later, on April 11, and the charges against him were withdrawn.

The total time between when C-97's statement was taken and the laying of charges by Project Truth was almost thirty-one months. The investigation itself lasted twenty-seven months, and it took an additional four months to obtain an opinion from the Crown. Detective Constable Seguin does not appear to have taken any investigative steps between December 1997 and August 1998 or between October 1998 and August 1999.

At the hearing, Detective Constable Seguin could not recall the reason for these gaps in the investigation. I can see no justification and find that Detective Constable Seguin unreasonably delayed the investigation into allegations of sexual abuse by Mr. Dufour. Detective Constable Seguin's supervising officers, Detective Inspectors Tim Smith and Pat Hall, should have noted the delays in this investigation and ensured that the complaint was being investigated in a timely manner.

Investigation of Father Romeo Major

On October 13, 1999, Detective Constable Don Genier received a call from C-111, who alleged that she had been sexually abused by Father Romeo Major in 1978, when she was an altar girl at the Paroisse des Saints Martyrs Canadiens. Detective Constables Genier and Steve Seguin took a formal statement. The OPP conducted a number of interviews of potential witnesses.

On April 10, 2000, Father Major was charged with one count of indecent assault on a female. Shortly after the arrest, C-69 contacted Detective Inspector Hall and inquired about the procedure for someone who had a complaint.

Project Truth did not have any female police officers, and in this case, the two alleged victims were female. Although I have seen no evidence to indicate that there was a problem in this case, it is nonetheless important that complainants be given a choice about the sex of the officers when they are disclosing allegations of sexual abuse.

Detective Constables Dupuis and Genier interviewed C-69 on April 18, 2000. It was difficult for her to disclose her allegations to the officers and she refused to provide a formal statement. She said Father Major abused her when she was between fourteen and sixteen years old.

She also alleged that she had been abused by a priest in Quebec. She said that she received \$5,000 for treatment from a diocese in Quebec and that her "good friend" Jacques Leduc had helped her get that settlement. According to C-69, Mr. Leduc, who was acting for the Diocese of Alexandria-Cornwall at the time, advised her that she could not proceed criminally due to a two-year limitation period for

these charges in Quebec. This is not in fact the law in Quebec. C-69 said she had to sign a document agreeing to never talk about the abuse by this Quebec priest again.

Mr. Leduc confirmed at the hearings that he had represented C-69 and that he helped her to obtain a civil settlement from a Quebec diocese for a complaint of sexual abuse against a priest. He denied having told her that there was a limitation period for her criminal complaint.

C-69 also indicated to the officers that Bishop LaRocque told her that if she talked about the abuse, he would ensure she was fired from her teaching position with the Catholic school board. At the hearings, the Bishop was asked about this comment, to which he said, "That is entirely false." Detective Constable Dupuis testified that he did not speak to Bishop LaRocque or Mr. Leduc about these issues. He thought that perhaps Detective Constable Genier may have looked into this in greater detail.

In my opinion, the OPP should have made some inquiries of Mr. Leduc and Bishop LaRocque about this information. Especially in light of the settlement with David Silmsen in 1993, the police should have been alert to the potential attempt to obstruct justice. In addition, if, as C-69 alleged, she had told Mr. Leduc about her abuse by Father Major, he might have been able to provide the police with additional information or a corroborating statement if C-69 waived her right to solicitor-client privilege.

On September 28, 2000, Detective Inspector Hall received a call from a doctor treating C-69, who advised that she was not medically fit to participate in legal proceedings about her alleged abuse and that she asked not to be contacted again.

The case against Father Major proceeded on the basis of the allegations of C-111. Detective Constable Genier and Crown Wilhelm met with C-111 on November 14, 2000. They discussed C-111's medical condition and the Crown explained the court process to her. Sometime before her statement to the OPP in the fall of 1999, C-111 had been diagnosed with cancer. Although C-111 wanted to continue with the court process, Detective Constable Genier's notes of the meeting indicate that she was having difficulties remembering details of her childhood because of medication she was taking.

The preliminary inquiry was held on September 19 and 20, 2001. It became apparent that C-111's memory had been affected by her illness and treatment, and the Crown made the decision to withdraw the charges. The charges were withdrawn on October 10, 2001.

David Petepiece's Complaint

David Petepiece called Project Truth in July 1998, and Detective Constable Steve Seguin met with him. Mr. Petepiece reported that in 1956, when he was ten years old, he was hospitalized at Cornwall General Hospital for about ten days. During this time, he was visited several times by a clergyman from Trinity Anglican

Church, who attempted to persuade the boy to let the clergyman touch him sexually. Mr. Petepiece also gave Detective Constable Seguin the name of the boy he said had shared the hospital room with him, Tommy Bazil.

Detective Constable Seguin told Mr. Petepiece that he would look into the allegations and get back to him in two or three weeks. Just over a week after his meeting with Mr. Petepiece, the Detective Constable interviewed Tommy Bazil. Mr. Bazil said that he did not know Mr. Petepiece and that he had been at a different hospital and therefore could not corroborate Mr. Petepiece's allegations. Despite taking this prompt action to investigate the complaint, Detective Constable Seguin did not contact Mr. Petepiece within a few weeks as promised or, it appears, at all.

Mr. Petepiece contacted Detective Constable Seguin on January 18, 1999, to inquire about the status of the complaint. The OPP officer told him about the interview with Mr. Bazil and said that the matter remained open. In May 2001, Mr. Petepiece wrote a letter to the Ontario Civilian Commission on Police Services, stating that he did not think his complaint had been fully investigated and asking that the investigation be "reinvigorated."

The OPP displayed a disappointing lack of sensitivity in its dealings with Mr. Petepiece. The decision not to pursue Mr. Petepiece's complaint may have been reasonable; however, Detective Constable Seguin's failure to inform him of this decision was not. If it was determined that the complaint was properly in the jurisdiction of the CPS, a referral should have been made immediately by Project Truth rather than pointing Mr. Petepiece in this direction three years after his initial complaint.

In my view, this case demonstrates one instance of the OPP and Project Truth management's failure to develop and enforce policies, practices, and procedures that would have ensured complainants making allegations of sexual abuse were dealt with appropriately, offered support, and kept apprised of the status of the investigations into their complaints.

External Pressures: The Media, Websites, and Garry Guzzo

The media coverage of the Project Truth investigations was, by and large, negative. The OPP was frequently portrayed as, at best, ineffective and incompetent in its investigations and, at worst, compliant in a cover-up. Several key narratives, including the existence of a pedophile ring, were repeated in the media throughout Project Truth and became problematic for the investigation and for the OPP.

The first stories appeared in the summer 1997. The OPP announced the launch of the project in a press release on July 28, 1997, and held a press conference on September 25, 1997. The media coverage that followed created difficulties for the OPP because it suggested that (1) Project Truth was focused on investigating

a ring of pedophiles; (2) sexual abuse was endemic in the Cornwall area; and (3) the investigations were simply a continuation of earlier investigations by the Cornwall Police Service in 1993 and by the Ottawa Police Service and the OPP in 1994.

From the outset of Project Truth, the media reported that the OPP was investigating a pedophile ring, even though there was no mention of a “ring” in the initial documentation provided to the media by the OPP. The OPP did not take proactive steps at the outset to explain the nature of the allegations and the scope of its investigation. In my view, the OPP did not respond well to the initial media framing of the Project Truth investigation. The OPP should have been alert to this characterization of the investigation and responded accordingly.

On July 9, 1998, Project Truth conducted a mass arrest of six individuals. Unfortunately, arresting the suspects together did nothing to dispel the notion that the OPP was investigating a clan or ring, and the accompanying press release prematurely signalled the end of Project Truth. The six individuals arrested on July 9 were Brother Leonel Romeo Carriere, Roch Landry, Father Paul Lapierre, George Sandford Lawrence, Father Ken Martin, and Dr. Arthur Peachey.

On the day of the arrests, the OPP issued a press release and Superintendent Carson Fougère spoke at a news conference. Superintendent Fougère said that the men arrested were “life-long friends,” that “their connections were through the Roman Catholic Church,” and that some of the men had business relationships. These assertions were inaccurate—the accused did not all know each other and only some of them had a connection through the Catholic Church—but were repeated in the media in the years that followed.

The media was also told that “five of the accused shared one victim” and that another victim was abused by two of the accused. At the same time, Superintendent Fougère said, “A pedophile ring? We haven’t uncovered evidence of it.” It is not surprising to me that some members of the press and the public would find the inconsistency of these statements confusing, and even disingenuous.

Shortly after the July 9 arrests, Constable Dunlop met with Detective Inspector Smith, Detective Sergeant Hall, and Inspector Trew. During this meeting they became aware that the material in the binders delivered to the Ministry of the Attorney General and the Ontario Civilian Commission on Police Services on April 7, 1997, had not been forwarded to the OPP.

This discovery may have fuelled Constable Dunlop’s concern about whether Project Truth had all the relevant information and was fully investigating the allegations uncovered by the Dunlops. At the time of the July 1998 arrests, a number of key suspects in the Fantino Brief had not yet been interviewed.

The relationship between the OPP and the Dunlops began to break down in the fall of 1998. This was significant because of the considerable goodwill the Dunlops enjoyed in the Cornwall area. They received attention from the national

media in the winter of 1999 in stories by CBC Radio and *Chatelaine* magazine on whistleblowers, just two examples of the numerous media pieces that depicted Constable Dunlop as a “folk hero.”

One of the consequences of the public perception of the Dunlops was that some victims and their families brought their complaints directly to Constable Dunlop rather than, or as well as, to the OPP. The OPP failed to fully transfer the public trust and goodwill toward Constable Dunlop to the Project Truth investigators. Such an effort may have minimized victims’ desire to reach out to the Dunlops. In my view a joint effort with Constable Dunlop should have been made early on wherein he and the OPP could have made a public appeal asking that alleged victims report allegations to Project Truth.

On July 31, 1998, Helen Dunlop delivered a variety of documents, including newspaper clippings and materials relating to Constable Dunlop’s charges under the *Police Services Act*, to MPP Garry Guzzo’s office. Constable Dunlop’s lawyer forwarded other materials to Mr. Guzzo on August 11, 1998.

I have no doubt Mr. Guzzo was genuinely concerned about the well-being of the alleged victims who sought him out. I am also of the view that his initial concerns about the complicity of institutions in covering up abuse or their lack of action in dealing with the sexual abuse of young people were well motivated. However, his interactions with the media, other politicians, and the OPP were at times careless, even reckless. His criticisms of the Project Truth investigation were sometimes based on incomplete or inaccurate information and had a profound impact on the investigation’s effectiveness. These criticisms caused alleged victims and others to distrust the officers involved and distracted the officers from the huge amount of work they had and probably had an impact on their morale.

On September 18, 1998, Mr. Guzzo wrote a letter to Premier Mike Harris outlining his concerns about the OPP investigation in Cornwall. In February 1999, Mr. Guzzo wrote a second letter to Premier Harris, again raising the OPP’s failure to interview complainants and witnesses. Between March 17 and March 24 a number of stories appeared in the media in which Mr. Guzzo was highly critical of Project Truth. One of the major issues raised was the OPP’s failure to interview some of the key witnesses in the case.

Having heard Mr. Guzzo’s evidence and in particular his concessions about the limited information he had when he spoke with the media on several occasions, it appears he overstated his knowledge of the facts. He also did not evaluate the reliability of much of the information he was receiving. This was indeed unfortunate because as an MPP, a former judge, and a lawyer, Mr. Guzzo attracted media attention and was apt to be believed.

Project Truth also faced a public relations challenge from a new source—the Internet. On July 26, 2000, the OPP became aware of a website called projecttruth.com that contained six statements taken from victims by Constable

Dunlop and provided to Richard Nadeau. In most of the statements, the name of the victim had been redacted. The website also set out a conspiracy theory about a group of pedophiles operating in Cornwall, a theory bolstered by the inclusion of Ron Leroux's statements. The website was created by and registered to James Bateman. Mr. Nadeau supplied information to Mr. Bateman to post on the website.

Detective Inspector Hall contacted Mr. Nadeau on July 31, 2000, and explained that some of the information on the site was incorrect and that his actions could harm the prosecution of Father MacDonald. Detective Inspector Hall also told Mr. Nadeau that the victims could be identified based on the information in their statements, even though their names were not given. The website was shut down on August 2, 2000. However, throughout the month of August, the OPP continued to receive complaints about items that had been posted on the website.

A second website, projecttruth2.com, was launched on August 26, 2000. This site was operated by Mr. Nadeau alone. Detective Inspector Hall was concerned because it listed certain people as pedophiles who were not even suspects, and because it contained incorrect information that would mislead the community. Detective Inspector Hall also thought victims would be less willing to come forward if they believed that their information would be posted on the site. He said he contacted Mr. Nadeau and asked him to change or remove the incorrect information.

The website was shut down on April 13, 2001, but resurrected around February 15, 2002. The website is still in operation, but it has not been updated since Mr. Nadeau's death in 2006. The site made information and misinformation widely available to the public, and in the relatively small community of Cornwall it was a significant source of gossip and innuendo. This type of citizen journalism had even more impact because the public was less knowledgeable about and familiar with websites than it is today.

In 2000, Mr. Guzzo began advocating for a public inquiry. He introduced Bill 103, "An Act to establish a commission of inquiry to inquire into the investigations by police forces into sexual abuse against minors in the Cornwall area." The bill passed first reading on June 21, 2000.

Before 2000, Mr. Guzzo's comments in the media were mainly directed at perceived flaws in the Project Truth investigation. Around the time of his demands for a public inquiry, Mr. Guzzo began suggesting both to other members of the legislature and in the media that the OPP were either incompetent or part of a cover-up.

In order to gain support for his bill, Mr. Guzzo sent a letter to the other members of the legislature in October 2000. It contained numerous inaccuracies that formed the foundation for his claims of incompetence or corruption.

Mr. Guzzo reintroduced his legislation calling for a public inquiry in May 2001 and reinvigorated his critique of Project Truth. He threatened to name some

of the alleged perpetrators who had not been charged in the legislature, where he would have immunity from prosecution. Ultimately, he did not follow through with this threat.

Both Detective Inspector Hall and Deputy Commissioner Lewis testified that the negative media attention, particularly from Mr. Guzzo, was generating public pressure to wrap up Project Truth.

By the fall of 2000, the investigative phase of Project Truth had effectively ended. The last Crown brief was submitted on July 20, 2000. The OPP was waiting for an opinion from the Crown on this brief, as well as five others. On August 15, 2001, Crown Lorne McConnery recommended that no charges be laid.

The OPP issued a press release on August 22, 2001, stating, “The OPP found no evidence that a pedophile ring operated in the city. There is nothing to indicate individuals operated in concert with each other to commit offences.” It further declared, “All information provided to or uncovered by investigators was followed up.” This announcement did not quell public criticism. Mr. Guzzo continued to insist that there was a pedophile ring operating in Cornwall and made new inaccurate claims.

The media study conducted for this Inquiry concluded that the most prevalent theme in coverage of historical sexual assault in Cornwall was police ineffectiveness. The fact that the OPP were unable, or unwilling, to correct some of the inaccuracies in the media probably contributed to the negative portrayal of the investigation.

The OPP failed to provide appropriate information to the community through the media with respect to allegations of sexual abuse and the related investigations. A coordinated media strategy is essential in maintaining public trust, ensuring a smooth investigation, and minimizing inaccurate, exaggerated, and fear-inducing messages.

The OPP should have said what its real focus was and how that focus was different from 1994. Accordingly, I recommend that in future special projects, a communications plan be developed at the outset of any investigation. This could be the responsibility of the media liaison designated for all cases that pass the threshold for major case management. Developing a media strategy includes clarifying roles and communication lines within and between agencies. Guidelines for dealing with the media in large-scale, multi-victim, multi-offender investigations were available at the time of Project Truth.

Conspiracy Investigation

Although the public believed that the OPP was investigating whether or not there was a group or ring of organized pedophiles operating the Cornwall area, I am of the view that the OPP’s investigation was much narrower, and was very closely

linked to the specific allegations contained in the Fantino Brief. After reviewing the brief that was submitted to the Crown for review, as well as the statements taken by the investigating officers, I find that the OPP investigated three distinct issues: (1) whether certain individuals were members of a group or “clan” of pedophiles, who attended specific locations together and committed sexual abuse there; (2) whether certain individuals conspired to obstruct justice with the illegal settlement with David Silmser that resulted in halting the investigation into Father MacDonald, and whether the conspiracy was formed during a “VIP meeting” on Stanley Island in late summer 1993; and (3) what happened to the pornographic tapes that were seized from Ron Leroux’s residence in 1993.

The OPP was not investigating the larger issue of whether there was an endemic problem of sexual abuse and whether prominent people were acting together to perpetrate or cover up this abuse.

It appears to me that Project Truth simply took Constable Dunlop’s theory of what the conspiracy entailed and who was involved in it, and investigated it in order to disprove it. The investigation was narrowly limited to an examination of whether there was a group of abusers who met in the locations mentioned by Mr. Leroux and who covered up one specific allegation of sexual abuse. If the OPP could not find credible evidence that the particular events alleged by Mr. Leroux had occurred, then it could conclude that there was no conspiracy, and thus no pedophile ring operating in the Cornwall area.

The officers did not reflect upon Constable Dunlop’s materials and ask whether the officer had found a problem but misunderstood its nature. Nor did they try to determine whether there were other ways that people could be assisting one another in perpetrating or covering up allegations of sexual abuse, using the Dunlop materials only as a starting point. It is my view that that community members did not want an answer just about the Silmser case—they wanted to know if there was an endemic problem of sexual abuse in their community and if people were misusing their authority to perpetrate it or cover it up. Although the Dunlop materials focused on the allegations of a ring, as well as the settlement with David Silmser and the CPS decision to drop the investigation, they also insinuated that complaints had not been pursued or complainants were discouraged from pursuing a complaint in other instances.

For example, in Constable Dunlop’s amended statement of claim, he pleads that the Silmser settlement and CPS refusal to pursue the complaint were “part of a greater conspiracy to keep a lid on allegations of sexual abuse involving prominent individuals in Cornwall” and that the CPS and others “conspired to derail the investigation involving Father Charles MacDonald and the late Ken Seguin as such an investigation would ultimately lead to the investigation of several prominent individuals in the Cornwall community.” Constable Dunlop also pleads that the Catholic Church had concealed sexual abuse of children by priests

and that “the suppression of the identity of sexual offenders was purposely done to prevent the filing of both criminal and civil complaints.”

The Dunlop materials and Mr. Leroux’s statements also insinuated that various perpetrators either passed children between them or, at least, were aware or should have been aware that others were committing act of abuse. They suggest that in the youth criminal justice system and the Church, young people were exposed to and abused by a number of people working in those institutions, and that people in these institutions ignored complaints of abuse.

The materials Constable Dunlop provided thus could have been seen as an indication that there was a larger problem that went beyond the David Silmser case.

Certainly, the wording of the mandate of Project Truth would have permitted an investigation into these larger issues. The investigators did not seem to turn their minds to the possibility that a group of pedophiles could have been operating in Cornwall, that institutions or individuals could have covered up complaints of abuse, or that abusers could have been passing children between them, even if Constable Dunlop and Mr. Leroux’s version of the conspiracy could not be proven or simply was not true. If they had, the brief would have contained statements from victims who had allegedly been introduced by an abuser to other abusers, such as, for example, Claude Marleau, Keith Ouellette, and Robert Renshaw. It also would have contained statements from people such as Albert Roy and Robert Sheets, who alleged that they were abused by a person in a position of authority after they disclosed that they had been abused by someone else.

The brief did not contain the statements from C-15 or C-99, who alleged that they had been discouraged by Malcolm MacDonald and by a CPS officer from pursuing their complaints. Nor did it include the statement from C-21, who alleged that he was abused at a cottage by Jean Luc Leblanc and Mr. MacDonald and that he witnessed other children being abused.

Because the investigation into the conspiracy was limited to an investigation into the theory presented by Constable Dunlop and Mr. Leroux, the OPP was able to say only that the Dunlop/Leroux allegations were not true. The OPP was not able to reliably tell the public whether there was an organized group of people abusing young people and misusing their positions within the community to suppress complaints against them. The need to answer this question was particularly pressing given the number of complainants who came forward during the course of the investigation, the number of people accused and arrested, and the connections, both social and institutional, among those accused.

Project Truth began interviewing witnesses in this investigation in the summer of 1998. The vast majority of the interviews were conducted in 1999 and 2000, with the CPS being investigated in earnest starting in January 2000. There were two main reasons behind the decision to delay the investigation. First, Detective Inspector

Hall testified that his priority was to investigate claims of sexual abuse. Second, the officers hoped that they could obtain information in the course of their investigations into sexual abuse that would assist them in the conspiracy investigation. Certainly, if other victims had claimed that they had been abused by the clan members at the locations mentioned by Mr. Leroux, this would have been useful information. As it turned out, Detective Constable Dupuis testified that they did not learn any useful information during the sexual assault investigations that was put toward the conspiracy investigation. They did of course gain information from alleged victims that would have assisted in a broader conspiracy investigation, had they been looking at issues beyond the allegations made by Mr. Leroux.

The decision to delay the investigation created a number of problems for Project Truth. The first issue was that Project Truth had to maintain some distance from the Cornwall Police Service, given that the CPS was being investigated as one of the alleged conspirators. This became problematic in investigations in which both the CPS and the OPP were involved in investigating a particular suspect, and in which a victim had allegations against multiple suspects who were divided between the two forces.

The need to maintain a distance between the two police forces contributed to some of the disclosure issues that arose during the Marcel Lalonde case. It also became problematic when Constable Dunlop delivered nine banker's boxes of materials to the CPS in the spring of 2000. It became necessary for the CPS to review the material in the boxes to determine whether they contained materials that had to be disclosed in the Marcel Lalonde prosecution. Detective Inspector Hall testified that he did not have concerns about the CPS reviewing the boxes of material even though it was still under investigation for the conspiracy. It is my view, however, that he should have been concerned, given that the boxes may have contained information that could have been relevant to the conspiracy. It was possible that the CPS's possession and review of these boxes could lead to allegations or rumours that the CPS had tampered with materials in them. Crown Shelley Hallett was cognizant of this fact and made arrangements to transfer the boxes to the Project Truth office.

The delay in the conspiracy investigation also meant that the OPP had to maintain distance from the local Crown Attorney's Office throughout the duration of Project Truth. Crown Murray MacDonald was another one of the alleged conspirators. This added to the difficulties in securing a dedicated Crown for Project Truth cases.

An additional difficulty was that suspects were unwilling to give information to the police once they had been charged with sexual abuse. Detective Inspector Hall explained that he did not try to interview Jacques Leduc for this very reason. Furthermore, at least one key witness/suspect, Malcolm Macdonald, had died

by the time the OPP completed its investigation and thus the OPP could not use him to implicate other conspirators.²⁶

The delay also meant that the decision to charge or not charge certain alleged perpetrators was delayed. Ms Hallett told Detective Inspector Hall that she wanted to review the conspiracy brief before she reviewed the briefs that related to Mr. Leroux and C-15's allegations of sexual assault.

Finally, the delay added to the controversy in the media about the competence of Project Truth's investigation. In 1998 and 1999, a controversy arose over the fact that certain key suspects witnesses had not yet been interviewed. Indeed, these individuals had not been spoken to because the interviews of conspiracy witnesses had been strategically delayed. In addition, the OPP's delay in announcing a close to the conspiracy investigation allowed rumours in the community about the conspiracy to grow, while the OPP came under attack from various sources, such as Mr. Guzzo. By the time the OPP announced an end to its investigation, its credibility had been undermined and the announcement did not satisfy the public.

It is unfortunate that the lack of resources devoted to Project Truth by the OPP compelled Detective Inspector Hall to delay some investigations in favour of others. In hindsight, he should have asked for more resources in order to complete this investigation more quickly. However, I find that he made a reasonable decision in prioritizing investigations into sexual abuse over a conspiracy that had already been the subject of one investigation, notwithstanding the difficulties that arose as a result of this decision.

The officers submitted their Crown brief on the conspiracy investigation on July 20, 2000 which, in my view, marked the end of the investigative stage of Project Truth. The OPP issued a press release announcing the conclusion of Project Truth on August 22, 2001. The press release said, in part:

... Legal opinions were sought from Crown Law Office Criminal concerning a number of remaining matters, and as a result, investigators have determined that there is not sufficient evidence to lay additional criminal charges in this investigation.

...

The OPP found no evidence that a pedophile ring operated in the city. There is nothing to indicate individuals operated in concert with each other to commit offences.

...

26. Malcolm MacDonald died on December 23, 1999.

[A]llegations of a criminal conspiracy involving a cover up were also thoroughly investigated. No evidence of any such criminal wrong doing was discovered.

Mr. McConnery testified that he had an issue with the comment that the OPP had found no evidence of a pedophile ring:

I was never asked for an opinion on that. I don't know if it would have been a proper question to ever put to me because I don't—we don't give opinions on things like that. We are asked was there evidence to support this criminal charge.

And so the thrust of this press release seemed to me to be saying this has all been subjected to Crown review, i.e., Lorne McConnery, without naming me, and he too has found that there is no paedophile ring in the City of Cornwall.

I share Mr. McConnery's criticism of the OPP's August 22 press release. His opinion was restricted to determining whether, based on the material provided to him, there was a basis to support a charge of criminal conspiracy.

Investigation of Linkages Among Alleged Perpetrators

The difficulty with tasking the OPP to investigate a pedophile ring is that such a ring is not easily defined at law. It is not a crime to be a "member" of a group of pedophiles; it is only a crime to commit acts of abuse, to assist others in doing so, to assist an abuser in avoiding criminal charges after the fact, or to conspire to commit abuse. Because there is no legal definition of a pedophile ring, the concept could mean different things to different people. It could be a group of people who committed acts of abuse together; a group of people who actively assisted one another in committing acts of abuse, either through passing young people between them, or by covering up one another's actions; or a group of people who were passively aware that the others were committing acts of abuse and did nothing to stop it.

It was well known that there were connections between some of the alleged perpetrators and that there was some evidence that certain alleged victims had been passed between abusers.

Throughout this Inquiry I heard evidence that suggested that there were cases of joint abuse, passing of alleged victims, and possibly passive knowledge of abuse. I am not making a pronouncement on whether a ring existed or not; it is not within my mandate to say what would have come from this information had it been explored more fully.

There is good reason why certain members of the public were less than satisfied with the OPP's unequivocal position about the non-existence of a ring. I note that much of what I have heard about linkages remain allegations that have not been proven beyond a reasonable doubt. Nonetheless, these allegations merited an in-depth review and investigation to determine if there was any significance to the linkages and to lay charges where appropriate.

Although I am of the view that the OPP investigated Ron Leroux's specific allegation about a "clan of pedophiles," I find that it did not conduct a full-scale investigation into the linkages between victims and perpetrators in a manner that went beyond Mr. Leroux's allegations.

Even if Project Truth was looking at linkages in a broader sense, it did not, in my opinion, employ an approach that would have allowed it to do so properly. Part of the difficulty was a lack of resources. Detective Inspectors Smith and Hall initially hoped to obtain funding for a crime analyst who would assist them in looking at the relationships between the victims and suspects. Detective Inspector Hall made some informal inquiries and was told that funding was not available.

Project Truth officers were left to do the linkage work themselves. Detective Inspector Hall had some training in linkage analysis, and he did this work in conjunction with the other officers. He admitted that the linkage work was time consuming and that a crime analyst would have helped them do this work more quickly.

It was expected that linkages would become evident as the Project Truth officers discussed their individual investigations with each other. Detective Constable Seguin testified that the officers were expected to know about the other files but that no one was assigned to plot the linkages on a chart or to do work of that nature. He added that the person with the most knowledge about the investigation and who would be expected to put all the pieces together was Detective Inspector Hall.

I find it difficult to see how the officers could have developed a comprehensive understanding of the connections between so many people with such an informal system. It is my view that Project Truth did not make a serious effort to understand the linkages between the various individuals involved in this case.

In addition, Detective Constable Seguin testified that Project Truth did not investigate allegations against deceased perpetrators because such an investigation would not lead to charges. Given that a number of persons of interest were deceased, that many of them worked together or had other connections, and that these people were not thoroughly investigated, these individuals could have been missing links in any analysis that attempted to piece together the connections between individuals. By understanding the connections between people, the officers would have been able to obtain information that could have assisted in their investigations into individual allegations of sexual abuse.

In addition, understanding the linkages between people could have assisted in building a case for conspiracy or accessory charges in addition to charges for sexual abuse. When the OPP did not have direct evidence that an alleged abuser intentionally passed a young person over to another abuser, evidence about a strong connection between people, including evidence of possible knowledge of the alleged abuser's illicit activities, could have provided circumstantial evidence for conspiracy or accessory charges.

Furthermore, when officers discovered that a number of suspects were employed by or involved with a particular institution or organization, they could have used this information to reach out to the organization in an attempt to identify other potential victims. For example, given that there were allegations that a number of people in the probations system were abused, the OPP could have approached the Ministry of Community Safety and Correctional Services to obtain the names of other probationers who had contact with the alleged abusers at the relevant time. Likewise, more could have been done with the Diocese given the number of former altar boys who were victims or alleged victims.

The OPP would have been well advised to inform these institutions that there was a problem. It is my view that the OPP needs to develop protocols to share information about criminal investigations in order to assist public institutions in identifying systemic problems and confirming that there are no current victims.

Finally, information about linkages could be helpful during the trial process.

Conclusion

This Inquiry was established, in part, to respond to rumours and innuendo in the community about events such as the seizure and destruction of tapes found at Ron Leroux's residence, Ken Seguin's death, and the settlement between David Silmser and the Diocese of Alexandria-Cornwall, all of which fuelled questions about whether there was an organized group of pedophiles operating in Cornwall. It was also called as a result of public dissatisfaction with the Project Truth investigations.

Had the OPP avoided the mistakes in some of its earlier investigations, these matters might well have been resolved and the later rumours would not have found such fertile ground in which to grow. The quality of the OPP's 1994 re-investigation of the events surrounding the Silmser settlement, as well as its re-investigation of Mr. Silmser's allegations against Father Charles MacDonald, are such examples.

The OPP was called in to investigate these matters after the Ottawa Police Service identified some serious deficiencies in the CPS investigation of Father MacDonald. Given these problems and the considerable controversy surrounding the issue, it was of paramount importance for the OPP to conduct a complete

and thorough re-investigation, which unfortunately, it did not. It was equally important for the OPP to properly investigate the very serious allegations of conspiracy and obstruction of justice that were undermining the community's trust in public institutions. The flaws in this investigation stemmed in part from assumptions made by the investigators and in part from the investigators' failure to interview certain people with relevant information and to obtain documentary evidence from the lawyers involved in the settlement. The OPP's incomplete investigation later allowed the force to become a target of public mistrust.

Five of the six officers who worked on the investigation were called as witnesses. I have no hesitation in concluding that the officers were all dedicated and hard-working. The Project Truth investigation involved an enormous amount of work.

Only one person arrested by Project Truth was convicted and from the public's perspective, this made it a failure, particularly given the number of complainants and suspects. Although the justice system does not measure success in terms of the number of convictions, I am troubled by the relatively small number of these cases that were brought to a full trial on the merits.

Some of the problems that plagued Project Truth are common in investigations of historical sexual abuse. Victims' and witnesses' memories fade, and investigators need to know how to help victims, in particular, situate events in time. Consent can be a complicated issue in cases in which the victim has been groomed to participate in abuse, and officers need to understand this so that they can obtain evidence to demonstrate whether consent may have been vitiated. In addition, victims can be fragile, and some have such difficulty dealing with the justice system that they eventually withdraw their complaints. Others, especially those who have been abused by people in positions of trust and authority, may have difficulty dealing with authority figures such as police and Crown prosecutors and may express their mistrust through anger and hostility. Steps must be taken to put complainants at ease and assist them in bringing their allegations forward. Further, historical allegations can be incredibly labour intensive. Witnesses and even alleged perpetrators may no longer live in the area and may be deceased or difficult to find. Institutional records must be tracked down to help corroborate allegations and situate events in time.

Notwithstanding the passage of time since the event, allegations must be acted upon in a timely manner. Suspects of historical abuse may still be in contact with children and may be continuing to perpetrate abuse.

The proper training and retraining of officers is of paramount importance. In particular, this training should address the challenges of dealing with victims of male-on-male abuse and those inherent in historical cases. Additional resources in the form of extra officers, a crime analyst, and administrative support (including

bilingual staff) all would have assisted the Project Truth investigation in following up additional leads and allowing more time for linkage and other intelligence work. A further resource in the form of a dedicated Crown attorney or team of Crown attorneys would have been immensely helpful.

The OPP also faced an unusual combination of challenges during Project Truth. The officers had to deal with unfriendly media, a largely untrusting public, and a vocal group of community activists who relied on questionable evidence and spread rumours through websites, through an outspoken MPP, and through the media. In addition, the officers faced the unique challenge of investigating allegations brought to light by Constable Perry Dunlop during an off-duty and unauthorized investigation that suffered from many deficiencies including poor note taking, inappropriate interview techniques, and undue, although unintentional, influence of victims and witnesses. In addition, the Project Truth officers had the difficult task of obtaining the disclosure of materials from Perry Dunlop. The OPP failed to put a strategy in place to deal with the media, to inform the community and dispel rumours, and to track and manage Perry Dunlop's exposure to their cases once it became evident that they were unable to obtain his cooperation.

A further difficulty was the OPP's inability to openly share information with the CPS and the local Crown Attorney's Office because both of them were being investigated for their roles in the Silmsker settlement. The OPP failed to develop a strategy to overcome any actual or perceived conflict of interest and to share information where necessary. The result was that information was unnecessarily withheld from the CPS. The barrier between the Crown Attorney's Office and Project Truth contributed to the difficulties for Crowns assigned to these cases.

I agree with a number of the recommendations proposed by Deputy Commissioner Lewis in his helpful recommendations to the Inquiry. He echoed many others in calling for a return to joint training with CAS officers. I agree that this needs to occur. I also agree with his recommendation that present training programs should be reviewed at the Ontario Police College and the OPP Academy in respect to sexual assault investigations and in particular that programs or modules be developed to address the investigation of historical sexual assaults, the understanding of and responding to male victimization, and the investigation of sexual offences against children.

Institutional Response of the Diocese of Alexandria-Cornwall

St. Andrew's Parish in the county of Stormont and St. Raphael's Parish in the county of Glengarry were granted official status by the Roman Catholic Church in 1802. The Diocese of Alexandria was established in 1890. In 1976, Bishop Eugène LaRocque was granted permission to establish a co-cathedral in Cornwall

and affix the name Cornwall, such that the Diocese became known as the Diocese of Alexandria-Cornwall.²⁷

Approximately 56,000 of the 87,000 people in the geographic area of the Diocese of Alexandria-Cornwall are Catholic. The Diocese contains thirty-one parishes, located in the counties of Stormont and Glengarry as well as in the City of Cornwall. The largest parish is St. Columban's in Cornwall.

Father Thomas Doyle²⁸ and Father Frank Morrissey were qualified as experts on canon law and on sexual abuse by members of the clergy at the hearings. They discussed issues such as the Catholic Church's historical response to sexual abuse by clergy, the 1983 *Code of Canon Law*, the 1992 *From Pain to Hope* document of Canadian Catholic Conference of Bishops (CCCCB), and the 2001 and 2002 Norms.

Father Morrissey stated in a 2001 article that accusations of clergy sexual abuse were initially met with denial by Church officials. Even when it became evident that some of these accusations were true, Church officials were still reluctant to recognize the extent of this behaviour.

Father Morrissey considers child sexual abuse by clergy a widespread global phenomenon. He stated that since 2001, when the Congregation for the Doctrine of the Faith became responsible for cases of child sexual abuse by clergy, the Congregation has been overwhelmed by the number of cases it has received.

The legislation and protocols on clergy sexual abuse currently applicable in Canada include the 1983 *Code of Canon Law*, the 2001 and 2002 Norms, a 1992 publication of the CCCCBB entitled *From Pain to Hope*, and laws promulgated by bishops in their respective dioceses.

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27. As discussed in the Process Chapter, I found the Episcopal Corporation of the Diocese of Alexandria-Cornwall (referred to in the Report as the Diocese of Alexandria-Cornwall) to be a "public institution" within the language of the Order-in-Council. As a "public institution," the response of the Diocese to allegations of historical abuse could be examined and recommendations could be made for how it could and should respond to such allegations in the future. I indicated that I would not be investigating the Roman Catholic Church, its doctrine, or its beliefs but rather the corporate entity of the Diocese as an employer of the priests who worked in the Diocese. I begin by providing an overview of the organizational structure of the Roman Catholic Church and the Diocese of Alexandria-Cornwall. This information is provided solely for background and contextual purposes.
28. The Diocese of Alexandria-Cornwall brought a motion to exclude the evidence of Father Thomas Doyle. Among the grounds were that Father Doyle was hostile to the interests of the Diocese and the Catholic Church and that he was biased and should not be qualified as an expert. I denied the motion on August 29, 2007. I stated that the Inquiry was a non-adversarial proceeding and that, in my view, Father Doyle has the qualifications to provide contextual expert evidence. Issues of concern regarding his testimony would go to weight.

The Archdiocesan Commission of Enquiry into the Sexual Abuse of Children by Members of the Clergy (the Winter Commission) was created in 1990 to inquire into the sexual abuse of children by diocesan priests in the St. John's Archdiocese in Newfoundland. The Commission was a Catholic Church initiative. The Commission's report, referred to as the Winter Report, recommended that the Catholic Church formally acknowledge and accept its responsibility for the abuse of children by members of its clergy.

In 1992, within two years of the publication of the Winter Report, the CCCB released a document entitled *From Pain to Hope*, which made recommendations about policies, procedures, and protocols that should be developed in Canadian dioceses regarding sexual abuse of minors by clergy. However, it is essential to note that this document is not binding on dioceses. The document was sent to all bishops in Canada, who were asked to promulgate a binding diocesan protocol on the subject.

From Pain to Hope states that the Church "too readily shelters its ministers from having to account for their conduct ... [and] is often tempted to settle moral problems behind a veil of secrecy which only encourages their growth." It encourages the Catholic Church to acknowledge and take responsibility for clergy sexual abuse. *From Pain to Hope* suggests that each bishop establish an advisory committee of at least five persons in their diocese and that issues involving sexual abuse be referred to this committee. The composition of this committee should be as diversified as possible and should include a canonist, a civil lawyer, and a professional person with experience treating victims of sexual abuse or treating those with sexual disorders. The advisory committee should develop a protocol to deal with allegations of clergy sexual abuse.

From Pain to Hope suggests that each diocese appoint a priest, referred to as a "bishop's delegate," to take responsibility for issues regarding sexual abuse. In the event of a complaint of clergy child sexual abuse, "The delegate should be empowered and directed by the bishop to act immediately (i.e., within twenty-four hours or as soon thereafter as possible), with a view to determining in a discreet and pastoral manner whether there are reasonable and probable grounds to believe there was child sexual abuse by a priest." If the delegate determines that the allegations are frivolous or unsubstantiated, the inquiry will be terminated. However, if such grounds are established, "The priest under inquiry should be placed on administrative leave with pay." If the priest denies the allegations, the delegate is to conduct further inquiry. If, after hearing from those who have brought the complaint, the delegate believes there is reason to proceed further, the accused priest is to be granted the opportunity to be heard. Lawyers for the diocese or the accused or members of the advisory committee may be asked to participate in this stage of the inquiry. If there is reason to proceed further, with his consent the

priest will be referred to a treatment centre for an assessment. If the accused priest can be considered responsible for his actions, the advisory committee will determine whether the matter should be referred to the diocesan bishop.

If the diocesan bishop decides to proceed in an administrative manner, he may impose the appropriate penalties according to Church law. Alternatively, he can decide that the case should be judged by a canonical penal trial and pass the evidence on to the promoter of justice. If the promoter of justice considers it opportune to begin a canonical trial, Canon 1722 can be applied: the accused can be excluded from ministry or from a Church position or function, required to live in or forbidden to live in a particular place or territory or be prohibited from public participation in the Eucharist. If the accused is found guilty at the conclusion of the trial, the appropriate canonical penalties would be imposed.

In 2002, the CCCB established a task force to report on progress regarding *From Pain to Hope*. The task force reported in 2005. It outlined a number of concerns and recommended that the CCCB adopt a national protocol to which the bishop of each diocese would be invited to make a commitment. This approach was chosen in order to respect the autonomy of each diocese. The protocol proposed the retention of the majority of the recommendations in *From Pain to Hope* but suggested further measures to promote greater diocesan transparency in regard to clergy sexual abuse and to increase the accountability of bishops for the management of clergy abuse. The protocol also contained measures designed to prevent clergy sexual abuse, such as security clearance for those working with children.

In 2002, the United States Conference of Catholic Bishops developed and adopted the Dallas Charter and Norms. The United States Conference of Catholic Bishops asked the Pope for permission to enact law for the United States on the issue of clergy sexual abuse, which was granted. Therefore, the Dallas Charter and Norms, unlike *From Pain to Hope*, are binding on all dioceses in the United States. The Dallas Charter and Norms contain a “one-strike-you’re-out” policy—any person, either priest or deacon, will be permanently removed from ministry for any act of sexual abuse.

Father Morrisey explained in his testimony that if an individual admits to sexually abusing a child in the confessional, the priest who hears the confession is confronted with a conflict between the seal of confession and the duty to report. He testified that in the case of a conflict between the civil law duty to report and the canon law seal of confession, priests are instructed to observe canon law.

Father Doyle stated that there is an opportunity for a priest hearing a confession to have a dialogue with and give advice to the confessor, which could include encouraging the perpetrator to seek counselling. He testified that this subject could be addressed as part of the training of seminarians. Father Morrisey stated

that he would ask the individual to meet with him outside of the confessional to discuss how the situation could be addressed, and upon meeting, he would remind the individual that anything he told him outside of the confessional could be subject to civil law. Thus, if the situation involved sexual abuse, the priest would warn the individual that anything he told him outside of the confessional could trigger the priest's legal duty to report.

I commend Father Doyle and Father Morrissey for giving serious consideration to this issue and proposing ways in which clergy can fulfil their statutory duty to report child sexual abuse. This very important issue, including their proposals, should be addressed by the Diocese immediately to ensure that civil authorities are alerted to the alleged sexual abuse in order to conduct their respective investigations so that young people can be protected. It is important to note that *From Pain to Hope* recommended that Catholics in Canada "become informed about the requirements of provincial and territorial reporting laws on child sexual abuse ... and become involved in information, education and prevention programs on child sexual abuse."

Policies and Procedures on Allegations of Sexual Abuse Against Members of the Clergy in the Diocese of Alexandria-Cornwall

Prior to 1987, there were no policies or procedures in the Diocese of Alexandria-Cornwall that addressed sexual abuse by members of the clergy. Bishop LaRocque testified that it became evident in 1986, when the Diocese was confronted with the Father Gilles Deslauriers matter, that the Diocese required a formal procedure and protocol on how respond to this issue.

The Diocese issued a policy on clergy misdemeanours in 1987. It was not an official or a formal policy. In 1992, the Diocese developed guidelines that specifically dealt with sexual abuse by priests, deacons, seminarians, and pastoral assistants and in 1995, they were replaced with another set of guidelines. In 2003, the "Diocesan Guidelines on Managing Allegations of Sexual Abuse of Children and of Sexual Assault of Adults by Clergy, Religious, Lay Employees and Volunteers" took effect. These guidelines, with some revisions, continue to apply in the Diocese today. Bishop Paul-André Durocher stated that the guidelines require updating, which he plans to undertake after he has received the recommendations from this Inquiry.

Father Gilles Deslauriers

Father Gilles Deslauriers was ordained by Bishop Adolphe Proulx in the Diocese of Alexandria in 1970. Bishop Proulx appointed Father Deslauriers the pastor responsible for French-speaking youth in Alexandria in 1971 and also gave him

responsibilities teaching religion in the French sector of Glengarry District High School. Two years later, Father Deslauriers was appointed pastor for Rouleau School in Alexandria.

Father Deslauriers' contact with children and youth continued when Bishop LaRocque succeeded Bishop Proulx. In 1978, Father Deslauriers became responsible for apostolate with francophone youth in the Diocese. That year, Bishop LaRocque also named Father Deslauriers full-time chaplain at La Citadelle High School in Cornwall.

The appointment at La Citadelle High School, a French public secondary school, was a result of the request of Principal Jeannine Séguin. Her suggestion that a Catholic priest be installed in a French public school as chaplain, with a salary to be paid by the school, was considered out of the ordinary by Bishop LaRocque.

Claude Thibault was born and raised in Cornwall. He served as an altar boy and a reader during mass and was involved in a youth group at his parish. In high school he was on the Pastoral Committee, which organized prayer sessions, masses, and other religious activities. As he said at the Inquiry, religion was an integral part of his life.

Claude Thibault was in grade 12 at La Citadelle High School when Father Deslauriers became chaplain of the French school. The priest organized a spiritual movement called "R3": "R" stood for "rencontre," which means "meeting," and the "3" signified meeting with God, others, and oneself. There were monthly meetings and weekend retreats at which the students participated in prayer, celebrations, and sometimes confession.

Claude Thibault became very involved in the R3 movement. Through its activities, Father Deslauriers quickly became his "good friend," a "mentor," and a "confidante." The student periodically sought advice from the priest. It was at one of these counselling sessions, he said, that Father Deslauriers began to sexually abuse him. Claude Thibault, like many victims of abuse, did not disclose at that time the sexual acts committed on him by the priest.

In 1979, when Claude Thibault was at a retreat in Trois-Rivières, Quebec, he disclosed the sexual acts to a lay person in charge of the retreat centre. He told this woman that he was concerned about the "therapy" administered to him by Father Deslauriers. She escorted him to Father Germain Coté, who encouraged Claude Thibault to approach Father Deslauriers and make it clear to the priest that he wanted this "therapy" to stop. After the spiritual retreat, Claude Thibault met with Father Deslauriers and asked the priest to stop this behaviour. He testified that Father Deslauriers complied.

In 1981, Claude Thibault entered Saint Paul Seminary. He disclosed the abuse that had been perpetrated on him by Father Deslauriers to a friend at the seminary.

His friend helped him to realize the control Father Deslauriers had over him and he began to understand that the sexual acts were without question inappropriate. Claude Thibault became angry and began to rebel against persons connected with the Diocese and generally with people in positions of authority. This behaviour had an adverse effect on his studies at Saint Paul Seminary and he received a poor evaluation from the rector in his second year. Claude Thibault was concerned and decided to arrange a meeting with Bishop LaRocque.

Claude Thibault told the Bishop that he had a strained and difficult relationship with Father Deslauriers; the priest had not been “true” with Claude, and he was controlling and played games. Claude Thibault testified that he was “trying to open a door” because he “had a desire to go further eventually” and disclose the sexual abuse to Bishop LaRocque. But instead the Bishop chastised him. This was a very unfortunate response. As Mr. Thibault testified, the Bishop’s “response closed the door” to the “possibility” of revealing the sexual abuse perpetrated on him by Father Deslauriers.

After completing his studies at the seminary, Claude Thibault had a pastoral internship in 1984 and 1985 at St. Columban’s Parish in Cornwall. His spiritual advisor at that time was Sister Myrna Ladouceur of Soeurs du Sacré-Coeur in Ottawa. Although he did not disclose the sexual abuse, Claude Thibault told Sister Ladouceur that Father Deslauriers lied, was manipulative, and abused his authority. She encouraged him to confront Father Deslauriers with these issues and to convey the impact of the priest’s behaviour on his life.

The meeting with Father Deslauriers took place on March 21, 1985. Claude Thibault confronted the priest with the sexual abuse, and he told Father Deslauriers that he was “taking ... back” the “control” the priest had over his life. Claude Thibault felt unburdened and for the first time out from under the control of Father Deslauriers.

Brisson Family Discloses Abuse of Benoit Brisson to Priests in the Diocese of Alexandria-Cornwall

On January 21, 1986, Father Bernard Ménard received a call from Ms Lise Brisson. She conveyed that she had something painful to share with the priest and asked to meet him. On the same day, Father Claude Champagne from Ottawa contacted Father Denis Vaillancourt and said that he had received information that Father Deslauriers had had sexual encounters with young persons. He added that this had destroyed a man’s marriage. This man was Benoit Brisson, who had been a student at La Citadelle when Father Deslauriers was chaplain.

Father Vaillancourt met the Brisson family. Hubert and Lise Brisson shared with him some details of the sexual abuse of their son, Benoit. They told him that

they had also disclosed the abuse to Father Rhéal Bisaillon and had contacted Father Ménard.

This was the first time Father Vaillancourt and Father Ménard had been presented with allegations of sexual abuse by a priest in the Diocese. The clergy were unprepared. They had no training in such matters and there was no protocol on sexual abuse at that time in the Diocese of Alexandria-Cornwall. Father Vaillancourt contacted Father Bisaillon. Because Father Ménard was from a religious order and was not a from the Diocese, Fathers Vaillancourt and Bisaillon thought he should be the person to confront Gilles Deslauriers with the Brisson allegations of abuse. Father Ménard agreed. He considered the Brisson disclosure to be credible. When Father Deslauriers was confronted with the Brisson disclosure of sexual assault, his response was that this was therapy for youths who lacked confidence and self-esteem. Father Ménard replied that this was a serious matter and that the Bishop should be notified immediately.

Father Deslauriers went to see Bishop LaRocque on January 27, 1986, the day he met with Father Ménard. He told the Bishop that he had engaged in an indiscretion, that he had touched a youth, but he insisted that it was not a serious matter.

Bishop LaRocque testified that he might have told Father Deslauriers to take a thirty-day retreat but acknowledged that there was no discussion as to when the retreat should begin or who should make the arrangements. The Bishop appears to have accepted Father Deslauriers' explanation and took no action at the time to further investigate the matter or to determine whether any other boys or young people in the Diocese had been sexually abused by Father Deslauriers.

The following morning, Father Ménard met with Bishop LaRocque to ensure that Father Deslauriers had disclosed his sexual behaviour with Benoit Brisson. There was no discussion or contemplation by the Bishop at that time about suspending or removing Father Deslauriers from the ministry.

Father Claude Thibault was ordained at La Nativité Church on February 1, 1986. At the time, he was unaware that other victims had been sexually abused by Father Deslauriers. But when he returned to the Cornwall area on February 7, 1986, his mother told him that Lise Brisson, Claude Thibault's teacher in grades 7 and 8, had called. It was on that day that Claude Thibault learned that another person had been sexually abused by the same priest.

That evening, Lise and Hubert Brisson told Claude Thibault that their son had been sexually abused by Father Deslauriers. Claude Thibault had been a classmate of Benoit Brisson in grade 7 and 8, as well as in high school. He said in his evidence that they had both participated in R3 retreats and had been in "therapy" sessions with Father Deslauriers. Claude Thibault testified that they were sexually abused by this priest in the same period.

After discussing the Benoit Brisson disclosure, Claude Thibault revealed to Father Vaillancourt that he, too, had been sexually abused by Father Deslauriers. Father Vaillancourt's reaction was compassionate and supportive. He encouraged Father Thibault to speak to the Bishop and offered to arrange the meeting.

Father Vaillancourt was worried that the abuse had been committed at La Citadelle High School and that the school board would become involved in this matter. He learned from Father Thibault that Father Deslauriers had had sexual encounters with him in the office at St. John Bosco rectory. Father Vaillancourt was the chaplain of La Citadelle at this time. He did not contact the school board or speak to staff at the school to determine if other children had been sexually abused by Father Deslauriers. In the next few days, Father Vaillancourt learned that there were more victims. By February 12, 1986, he had seven names and had met with four of the alleged victims.

On February 9, 1986, Father Thibault told Bishop LaRocque that, like Benoit Brisson, he was a victim of sexual abuse committed by Father Deslauriers. He explained that Father Deslauriers had told him that the sexual contact was therapy. Father Thibault reminded the Bishop of their meeting in 1983, and that he had told the Bishop that Father Deslauriers was not truthful, was manipulative, and was playing games. He also told the Bishop that his response had ended the discussion and that had the Bishop been more receptive and supportive, he would probably have disclosed the sexual abuse several years earlier.

Claude Thibault explained to the Bishop that his difficulties in the seminary and confusion were, in large part, attributable to Father Deslauriers. Father Thibault testified that when he revealed that he, in essence, worshipped Father Deslauriers, Bishop LaRocque abruptly said, "That's idolatry." The Bishop subsequently apologized and said he did not intend to be critical and accuse Father Thibault of idolatry.

Father Vaillancourt met with Bishop LaRocque on February 12, 1986 and revealed the number of possible victims. The Bishop was shocked and said that action had to be taken.

Accompanied by Father Ménard, the Bishop met with Father Deslauriers at La Nativité. He instructed Father Deslauriers to leave the Diocese of Alexandria-Cornwall immediately. He asked the priest to resign but undertook to support him in a position in another diocese, after Father Deslauriers had completed treatment with a therapist. Bishop LaRocque believed that Father Deslauriers' conduct could be changed; in the Catholic Church there is no sin that cannot be forgiven, and there can be modification in the orientation of one's life. But the Bishop testified that he now understands that professionals in the field of psychiatry do not subscribe to the view that the sexual behaviours exhibited by Father Deslauriers can necessarily be successfully treated.

Bishop LaRocque and Father Ménard did not discuss whether the police or Children's Aid Society (CAS) should be contacted regarding the allegations of abuse against Father Deslauriers. Because the victims who had come forward were now in their early twenties, it may not have occurred to them that there were children possibly at risk in the community. No protocol existed in the Diocese at that time, and the clergy believed that the matter could be handled within the confines of the Roman Catholic Church.

Bishop LaRocque testified that neither he nor other clergy in the Diocese were trained to deal with allegations of sexual abuse. Nor, as mentioned, was there a protocol in the Diocese. The behaviour of Father Deslauriers was not reported to any outside agencies—not to the CAS, not to the police, and not to the school board. Nor did the Bishop conduct a formal investigation of the abuse at that time.

It is important to note that prior to January 1986, comments were made by other priests suggesting that they, too, knew or suspected that Father Deslauriers was having sexual contact with young people.

Father Réjean Lebrun testified that the Diocese authorities were initially silent about the Father Deslauriers matter. Parishioners inquired about the actions that would be taken by the Diocese to deal with this problem and the allegations of sexual abuse against the priest. But as Father Lebrun said, clergy at that time did not question the authority of the Church; the structure of the Roman Catholic Church was strict obedience and matters of sexuality were not spoken about openly, particularly sexual misconduct by a priest.

There was no public announcement by the Diocese of the circumstances leading to the departure of Father Gilles Deslauriers in 1986. No explanation was given to the clergy or to parishioners. Father Lebrun and others thought that the matter was mishandled by the Diocese, with negative repercussions in the Cornwall community for many years.

Father Vaillancourt thought that the lack of a policy or written guidelines on sexual abuse was a significant problem when the Diocese was confronted with this issue in the 1980s. And as several priests stressed, what exacerbated the problem was that they had no training in such matters. Neither he nor, to his knowledge, other priests notified the school board responsible for La Citadelle, where Father Deslauriers had been a full-time chaplain.

Father Deslauriers Celebrates Mass in Hull

Father Ménard contacted Bishop LaRocque to inform him that Father Deslauriers was performing ministerial functions in Hull. On about March 18, 1986, at the request of Bishop LaRocque, Father Ménard travelled to Hull to ensure

that Bishop Proulx knew of the complaints of sexual abuse by parishioners in the Diocese of Alexandria-Cornwall. Father Ménard testified that his purpose in visiting Bishop Proulx was twofold: (1) to persuade the Bishop to remove Father Deslauriers from his clerical functions in the Diocese of Gatineau-Hull; and (2) to ensure that Father Deslauriers was receiving therapy.

Bishop Proulx asked Father Ménard to meet with Father Deslauriers. Father Ménard was direct; he said there were several allegations of sexual misconduct against him and that it was inappropriate for Father Deslauriers to perform clerical functions and to have contact with young people. Father Ménard told the priest that he thought he should leave the area. Father Deslauriers assured Father Ménard that he was seeing a therapist weekly. But Father Ménard had no confidence that the therapist actually knew about the sexual abuse allegations. It was also Father Ménard's opinion that Father Deslauriers should be receiving more than weekly therapy. Father Ménard shared his concerns with Bishop LaRocque in correspondence.

On March 22, 1986, Mr. and Ms Brisson sent a letter to Bishop LaRocque, Bishop Proulx, the Apostolic Nuncio, the Prefect of the Congregation for Bishops, and Archbishop Spence. They wrote that Father Deslauriers had been seen celebrating mass in Hull one week after he left Cornwall. They also stated that Father Deslauriers had travelled to the Cornwall area. Hubert and Lise Brisson complained that the Church did not appear to have taken any measures either to assist the young victims or to treat Father Deslauriers.

After a meeting with the aggrieved victims and distressed families, Father Ménard wrote a letter and submitted a report to Bishop LaRocque. In the March 25, 1986, correspondence to the Bishop, Father Ménard explained that he had prepared the report because the Gilles Deslauriers matter was escalating. More people in the Cornwall area had become aware of the priest's alleged sexual misconduct and dissatisfaction was growing with the Church's failure to initiate measures to prevent further victimization. Father Ménard stressed that it was important to listen to the victims and families to learn the truth, and to promote justice and healing. He maintained that the faith of these young people and their families was at stake. He informed Bishop LaRocque that dissatisfied people in the Diocese had sent letters regarding Father Deslauriers to Church superiors.

Father Ménard described the details of abuse conveyed to him by the alleged victims of Father Deslauriers. He wanted the Bishop to fully understand the seriousness of the situation. Father Ménard also described the spiritual manipulation of consciences, discussing Father Deslauriers' deception and dishonesty in telling these alleged victims that his "therapy" would help them.

Father Ménard made several recommendations. In his view, Father Deslauriers should be prohibited from engaging in pastoral work; only after completing

treatment and receiving a suitable evaluation from the therapist was Father Deslauriers to be allowed to return to clerical functions. He asked the Bishop to ensure that the priest was attending appointments and following the prescribed treatment. Father Ménard also recommended that Father Deslauriers receive more intense treatment.

Father Ménard also suggested to the Bishop that Father Deslauriers undergo a process of absolution and, if required by canon law, suspension. He recommended that Father Deslauriers leave the Diocese of Hull immediately. He stressed that any diocese that received Father Deslauriers should be fully apprised of the priest's past conduct with young persons. Furthermore, he stated that the priest should be prevented from communicating with any of the victims whom he had allegedly abused. Father Ménard proposed that the Church establish a committee, an ecclesiastical tribunal, to hear from the victims and their families as well as priests, and to make recommendations to the Bishop. The costs of therapy for victims of abuse should be defrayed by the Church.

Bishop LaRocque travelled to Hull to meet with Bishop Proulx. He asked Bishop Proulx to remove Father Deslauriers from ministerial duties at the parish but Bishop Proulx was not receptive. Bishop LaRocque was aware at this time that there were between eight and twelve alleged victims. He left the Diocese of Gatineau-Hull without any commitments by Bishop Proulx and considered his meeting unsuccessful. Bishop LaRocque still did not consider contacting the police, despite the fact that Father Deslauriers was continuing to exercise his ministry in another diocese and had contact with young people.

After reading Father Ménard's report and conferring with Monsignor Bernard Guindon, Bishop LaRocque agreed in early April 1986 to establish an ad hoc committee. Bishop LaRocque decided that the committee should consist of Jacques Leduc, the Diocese lawyer, and Sister Claudette Pilon. In addition, the Bishop selected Monsignor Guindon to chair the Ad Hoc Committee on the Deslauriers case. Members of the committee were asked to listen to the testimony of witnesses designated by the Bishop and to make recommendations. Bishop LaRocque testified that at the time he established the Ad Hoc Committee, he was morally certain that Father Deslauriers had engaged in sexual acts with young people, considered "one of the worst crimes" by the Church.

Bishop LaRocque asked Father Deslauriers to testify before the committee. In a letter dated April 6, 1986, the Bishop also requested Father Deslauriers to continue his treatment in Pierrefonds. Father Deslauriers responded to the Bishop's letter on April 16, 1986. He challenged the composition of the committee, and made it clear that he would not complete the three-month retreat in Pierrefonds.

Members of the Ad Hoc Committee were asked to take an oath of secrecy. The Ad Hoc Committee heard evidence from alleged victims of Father Deslauriers,

members of their families, and priests. It was clear to the committee that people in the Diocese were not only very disturbed by Father Deslauriers' behaviour but also deeply upset at the failure of Bishop LaRocque to address this serious situation.

The Ad Hoc Committee report contained six recommendations. The first recommendation was that Father Deslauriers be suspended "a divinis" and that a competent authority uphold his exclusion from the Diocese. A suspension "a divinis" was a decision that Church authorities in Rome had to make. This meant that the priest would not be permitted to exercise any public ministry. The second recommendation was excardination, followed by incardination into another diocese with conditions. It was proposed that Father Deslauriers undergo therapy by a qualified psychologist who was fully cognizant of the behaviour engaged in by the priest, with the proviso that he be prohibited from any pastoral functions until the competent authority was convinced that he was fully rehabilitated. A copy of the report was to be sent to the therapist. The third recommendation was addressed to the people who wished to undergo counselling and treatment as a result of the acts of Father Deslauriers. It proposed that the Diocese assume the cost of such therapy and that Father Deslauriers be responsible for these costs. A further recommendation was that serious consideration be given to Father Ménard's report.

Nowhere did the committee propose that the Diocese try to seek out other possible victims to ensure that they, too, received therapy for the sexual abuse committed by the priest. The Ad Hoc Committee also did not make recommendations on the importance of contacting outside agencies such as the CAS, the school boards, or the police to alert these institutions to the sexual conduct of Father Deslauriers with boys and young people. Mr. Leduc, the Diocese lawyer, explained that because the victims were now in their early twenties and were young adults, and because the sexual assaults were historical, the Ad Hoc Committee did not recommend that the Diocese contact outside agencies. Clearly, thought was not given to other victims or to the risk of abuse of other children or other young people with whom Father Deslauriers came into contact after he left the Diocese of Alexandria-Cornwall.

No investigation was undertaken by the Diocese of Alexandria-Cornwall to determine whether other children were abused at the schools or at other locations or with other groups at which Father Deslauriers had been involved. Nor did the Bishop himself consider contacting agencies outside the Church to alert these institutions to the sexual misconduct by Father Deslauriers.

In May 1986 the Brisson family decided to contact the media to publicize the abuse allegedly committed by Father Gilles Deslauriers. Ms Brisson testified that they did not think that the matter was adequately progressing and that Benoit was not satisfied with the response of the Diocese.

In May 1986, Sergeant Ron Lefebvre and Constable Herb Lefebvre of the Cornwall Police Service (CPS) were assigned the investigation of the allegations. On May 27, 1986, they met with Monsignor Guindon. He informed the CPS officers that he had been on the committee set up by the Bishop but that he had taken an oath of secrecy and could not reveal any information.

Later that day, the CPS officers met with Bishop LaRocque. The Bishop acknowledged that Father Deslauriers had a forceful character and that he could be manipulative. The Bishop told the officers that Father Deslauriers had explained to him that what he had done was therapy, “although not the type taught at the seminary.” The Bishop also stated that he had transferred the priest. In the Bishop’s opinion, Father Deslauriers did not recognize that he had a problem. Bishop LaRocque refused to provide information regarding the Ad Hoc Committee’s findings.

Sergeant Ron Lefebvre and Constable Herb Lefebvre continued to conduct interviews and take statements throughout May and June in relation to the Deslauriers investigation. On June 3, 1986, they arrived at a rectory in Alexandria, where the Bishop and priests from the Diocese were meeting at that time. The police officers asked to speak to Father Claude Thibault.

CPS officers Ron and Herb Lefebvre told Father Thibault that they either suspected or had reason to believe that he had been sexually abused by Father Deslauriers. Father Thibault immediately “panicked,” “felt torn inside,” and denied the abuse. One of the officers became irritated and said to the young priest, “What angers me most is the apparent attempt of the Church to cover up.” Father Thibault assured the Cornwall police officers that they were on the “right track” and that they needed to continue their work.

Father Thibault contacted Jacques Leduc, who advised him not to lie and explained that the priest could be held in contempt of court if he was not truthful with members of the judicial system. At Father Thibault’s request, Mr. Leduc contacted the CPS and told the police that the priest wished to withdraw his statement that he had not been abused by Father Gilles Deslauriers.

Father Thibault was prepared to participate in the police investigation. In Mr. Leduc’s presence, he gave a statement to Sergeant Ron Lefebvre and Constable Herb Lefebvre at the Cornwall police station. The Cornwall police officers also took statements from other priests in the Diocese.

The officers contacted Mr. Leduc to arrange a meeting with Bishop LaRocque, as they wished to take a statement. When Constable Herb Lefebvre and Sergeant Ron Lefebvre arrived at Bishop LaRocque’s residence on June 16, 1986, he refused to give a written statement to the police. The Bishop told the officers that he did not want to lose the trust of the priests in his Diocese, and he refused

to answer any police questions or divulge any information that was not already public. The Bishop made it clear to Sergeant Ron Lefebvre that “should he be called to court, he would not answer questions, he would go to jail first. With that said, the interview was completed.”

On June 3, 1986, Father Deslauriers sent Bishop LaRocque a letter requesting his excardination from the Diocese of Alexandria-Cornwall. Bishop LaRocque contacted Bishop Proulx to ask him if he was prepared to incardinate Father Deslauriers into his diocese with certain conditions. On June 20, 1986, Bishop Proulx wrote that he wanted to wait until the criminal matter was resolved before he considered the incardination of Father Deslauriers into the Diocese of Gatineau-Hull.

Father Deslauriers Is Criminally Charged—Pleads Guilty—No Incarceration

On September 3, 1986, the Bishop was served with a subpoena to testify on behalf of the Crown at the preliminary inquiry of Father Deslauriers. Bishop LaRocque made it clear that he did not want to be involved in the criminal process. The bishop testified that he now would be willing to cooperate with authorities in a situation similar to that of Father Deslauriers.

On September 18, 1986, Father Gilles Deslauriers was committed to stand trial on seven counts of indecent assault and four counts of gross indecency. A few days prior to his scheduled trial, Father Deslauriers pleaded guilty to some of the criminal charges. He was convicted on November 10, 1986, of four counts of gross indecency contrary to section 157 of the *Criminal Code*. He was given a suspended sentence and two years probation. The convicted priest was simply placed under the supervision of Bishop Proulx for two years and required to undergo therapy.

Bishop LaRocque wrote to Bishop Proulx on December 9, 1986, to advise him that the criminal matter was now resolved and that he wished to proceed with the excardination and incardination of Father Deslauriers. He listed some of the conditions of Father Deslauriers’ probation order. Bishop LaRocque stated that Father Deslauriers should not be permitted to exercise ministry in the Diocese of Alexandria-Cornwall or in parishes bordering on or in close proximity to it. Bishop LaRocque enclosed a copy of the December 9, 1986, excardination with conditions.

In correspondence, Bishop Proulx argued that excardination must be without conditions. Bishop LaRocque relented and agreed to sign an act of excardination without conditions. As mentioned, the Ad Hoc Committee had recommended that conditions be attached to Father Deslauriers’ incardination into another

diocese. Bishop LaRocque was unsuccessful. In February 1987, Father Deslauriers was incardinated into the Diocese of Gatineau-Hull without conditions.

Father Deslauriers Moves to a Different Diocese

Father Claude Thibault learned that Father Deslauriers was in the Diocese of Saint-Jérôme. Father Deslauriers continued to wear a collar, celebrate mass, and have contact with young people. In my view, Father Gilles Deslauriers should have been removed from ministry and not be permitted to move to different dioceses. He was a risk to parishioners in the Gatineau-Hull area and to those in the Diocese of Saint-Jérôme.

In Father Lebrun's opinion, the Father Deslauriers matter was mishandled by the Diocese and resulted in bad feelings among parishioners and members of the community in Cornwall for a long period. Father Thibault thought that Father Deslauriers should have been removed from ministry and not permitted to work in another diocese.

The old philosophy remained entrenched at the time of the Deslauriers matter. The Diocese of Alexandria-Cornwall did not take active measures to report a priest's behaviour to civil authorities and instead, was focused on avoiding scandal in the Diocese.

It is clear from the evidence of witnesses regarding the Father Gilles Deslauriers matter that the Diocese of Alexandria-Cornwall and Bishop Eugène LaRocque failed to provide training on sexual abuse of young persons by the clergy to individuals in the Diocese including clergy, diocesan personnel, and volunteers. It is also evident that the Diocese and Bishop LaRocque at that time had not developed or adopted policies, guidelines, or protocols to respond to allegations of sexual misconduct of young persons by members of the clergy. Furthermore, the Diocese and Bishop LaRocque failed to take appropriate action to ensure that young people in the community would not be at risk of inappropriate contact by Father Gilles Deslauriers. The Diocese and Bishop LaRocque also failed to advise the police and Children's Aid Society in relation to the allegations of sexual abuse by Father Deslauriers of young persons. And significantly, they did not adequately cooperate with the CPS with respect to the investigation of the allegations of sexual misconduct by Father Deslauriers. It is also my finding that the Diocese and Bishop LaRocque did not take appropriate action to identify other potential victims of Father Deslauriers. Furthermore, the Diocese and Bishop LaRocque failed to monitor the treatment of Father Gilles Deslauriers. It is also evident that the Diocese and Bishop LaRocque failed to ensure that sufficient conditions were applied in the incardinating dioceses with regard to Father Deslauriers, and by allowing Father Deslauriers to leave the Diocese and excardinating him they failed to maintain supervision of this priest.

Father Carl Stone

Father Carl Stone was in Cornwall in the Diocese of Alexandria between 1957 and 1963. Prior to joining the St. John Bosco Parish, Father Stone was a priest in the Diocese of Ogdensburg in New York. He was asked to leave several dioceses, including Cornwall, because of sexual and other inappropriate conduct. Father Stone served as a priest in different dioceses in Canada and the United States. He returned to Cornwall in 1981.

According to correspondence between Church officials in the 1950s and 1960s, Father Stone had sexual relationships with children and young adults. When Father Stone was instructed by Church officials to leave a diocese for his inappropriate conduct, he simply moved to another diocese, where he continued to engage in sexual behaviour with boys and young adults.

Father Stone joined St. John Bosco Parish in Cornwall in June 1957. The Bishop of the Diocese, Rosario Brodeur, received a letter in August from Monsignor William Argy, the Chancellor of the Diocese of Ogdensburg in New York. In the August 3, 1957, correspondence, Bishop Brodeur learned that Father Stone had a history of sexual misconduct.

Bishop LaRocque agreed in his testimony that the comments about Father Stone were very serious, that it was clear the priest had engaged repeatedly in sexual misconduct with children, and that the New York diocese was warning Bishop Brodeur of the problems with this priest.

Bishop Brodeur confirmed in a letter in December 1957 to the Reverend Frank Setzer of the Montfort Fathers in New York that Father Stone had been at St. John Bosco Parish in Cornwall for the past six months. He wrote that Father Poirier of St. John Bosco believed that Father Stone had been a “victim of rash and unfair judgment,” and had invited him to his rectory with the permission of Bishop Brodeur. Father Stone was accepted to this parish for one year *ad experimentum*, that is on a temporary basis.

This one-year stay was extended further by Bishop Brodeur at the request of Father Poirier. Father Stone remained a priest in Cornwall from 1957 until August 1963.

A second letter of concern was sent by the Diocese of Ogdensburg in April 1958. Father Stone had been seen in Malone, New York, wearing his collar. Church officials from Ogdensburg asked the Diocese of Alexandria to take measures to ensure that Father Stone did not come to the New York diocese.

Although Bishop Brodeur had assured Church officials at the Diocese of Ogdensburg that he would take immediate action and expel Father Stone if he travelled without permission to the New York diocese, the Bishop failed to carry through with these measures. Instead, Father Stone remained a priest in Cornwall for almost another five years. It was not until 1963 that Father Stone was required

to leave the Diocese of Alexandria as a result of a “misdemeanor” for which the Cornwall police had “threatened to intervene.”

Father Stone Returns to Cornwall in 1981

Bishop LaRocque interviewed Father Carl Stone in October 1981. Father Gary Ostler had asked the Bishop to permit Father Stone to work in the Diocese of Alexandria-Cornwall. Bishop LaRocque read the Church files on Father Stone and spoke to Father Ostler about Father Stone’s background. He examined the correspondence between the Diocese of Ogdensburg and Bishop Brodeur, and learned that Father Stone had a history of sexual relations with teenage boys.

Bishop LaRocque was also well aware that Father Stone had been convicted of a sexual offence in New York. The Bishop knew that Father Stone had been undergoing treatment at the Southdown Institute, where priests in North America seek counselling and treatment for various problems such as alcoholism, drugs, and sexual problems.

Father Stone had been staying with Father Ostler at the St. John Bosco rectory since he left Southdown. Bishop LaRocque knew that Father Stone was on probation and was required to report to a probation officer in Cornwall.

Bishop LaRocque testified that he had reservations about allowing this priest to work in his Diocese. He instructed Father Stone in October 1981, “never to be alone with a boy(s) in a room or a car.” Bishop LaRocque sought work for Father Stone as a full-time chaplain at St. Joseph’s Villa and on a part-time basis at Mount Carmel House. St. Joseph’s Villa is a retirement home in Cornwall. The Bishop needed to seek permission from the Canadian government for Father Stone to work at these two institutions in Ontario.

Mount Carmel was located next door to Iona Academy, an elementary school operated by the Catholic school board. The eldest students were thirteen or fourteen years old. Father Stone was permitted to wear his collar. Yet Bishop LaRocque did not warn the administration of the school of Father Stone’s background and that he would be working in very close proximity to the school. He did not inform school officials of Father Stone’s history of sexual activities with children. Bishop LaRocque acknowledged at the hearings, “[T]hat should have been done.” The Bishop appeared to be preoccupied with avoiding scandal in the Diocese and was less focused on the protection of children.

In a December 8, 1981, note to Father Stone, the Bishop reminded the priest that he was not permitted to be alone with youths.

Bishop LaRocque wrote to Immigration in June 1982, asking the federal government to grant permission to Father Stone to allow him to work in Cornwall as a chaplain. He also wrote on October 12, 1982, to Ed Lumley, the Member of Parliament for Stormont-Dundas, as Father Stone’s permit to remain in Canada

was due to expire in seventeen days. In the letter, Bishop LaRocque informed the federal politician that Father Stone had been convicted of a sexual offence in Albany and had received a suspended sentence. He stated that the Cornwall Probation Office was supervising Father Stone. When he gave his evidence, Bishop LaRocque acknowledged that it probably would have been “more prudent” to disclose the other incidents of sexual misconduct. The Bishop agreed that this letter to Mr. Lumley did not contain a complete account of Father Stone’s past. This, he said, is known in the Roman Catholic Church as “mental reservation”—limiting the amount of information that is disclosed.

Bishop LaRocque met with Minister Lloyd Axworthy in Ottawa on December 22, 1982, to seek permission for Father Stone to remain in Canada on a Minister’s Permit, which was renewable each year. A Minister’s Permit for Father Stone was granted. However, Minister Axworthy imposed the following seven conditions in his correspondence to the Bishop in January 1983: (1) you will be personally responsible for Father Stone and his behaviour in Canada and are willing on all occasions to answer for it; (2) Father Stone will remain in the same or similar duties in the Cornwall area, i.e., working only with geriatric cases or alcohol rehabilitation cases; (3) Father Stone will not be allowed to work with young people; (4) Father Stone will continue to undergo his rehabilitative therapy regularly; (5) Father Stone will continue to enjoy the support of a group of religious Fathers; (6) you will be responsible for maintaining a strict control on Father Stone; and (7) the decision to renew the Minister’s Permit will be made following an annual review.

Minister Axworthy made it clear in this correspondence that the Canadian Immigration Centre in Cornwall had been notified of the conditions attached to this Minister’s Permit and would be interviewing Father Stone.

Bishop LaRocque accepted these conditions. Bishop LaRocque agreed to be personally responsible for Father Stone’s behaviour while he was in Canada. The Bishop knew that Father Stone had been convicted of a sexual offence involving minors in the United States, that Church officials in the Diocese of Ogdensburg did not want Father Stone in their area, and that Father Stone had brought boys to a camp several times in Ogdensburg, and that the priest had engaged in sexual misconduct prior to serving in the Diocese of Ogdensburg. Bishop LaRocque also knew that Father Stone had committed a “misdemeanor” in Cornwall in 1963. Yet despite this priest’s history of misconduct and his sexual activities with boys and young men, Bishop LaRocque spent considerable effort and took extraordinary steps to ensure that Father Stone could remain in the Diocese of Alexandria-Cornwall.

In February 1985, Mr. Fern Lebrun, manager of the Canadian Immigration Centre in Cornwall, sent a letter to Father Stone indicating that it was very unlikely that the Minister’s Permit would be extended beyond January 24, 1986. Mr.

Lebrun told Father Stone to make the necessary arrangements to leave Canada by that date.

Bishop LaRocque responded to Mr. Lebrun's letter and sent a copy of his correspondence to Flora MacDonald, Minister of Immigration at that time. The Bishop wrote that it was unusual to respond to "copied letters," but that he "must make an exception" because of the great importance of Father Stone to the Church. Bishop LaRocque acknowledged at the hearings that he expressed very strong concerns to the Minister and to the manager of the Canadian Immigration Centre in Cornwall regarding the federal government's decision not to extend Father Stone's permit to remain in Canada.

Two months after Bishop LaRocque wrote to the federal government praising Father Stone and urging that his Minister's Permit be extended so that the priest could remain in Canada, Bishop LaRocque received a number of complaints about the priest. Sister Kane, the Administrator of St. Joseph's Villa, met with Bishop LaRocque to advise him that Father Stone was receiving young men at his apartment. This was clearly in breach of the conditions under which Father Stone was permitted to work in the Diocese. The Bishop instructed Father Stone to leave the Diocese and the country.

Bishop LaRocque did not disclose to the government the reason for Father Stone's departure from the Diocese. In the June 21, 1985, letter to Mr. Lebrun of the Canadian Immigration Centre in Cornwall, Bishop LaRocque simply states, "Father Carl Stone has resigned as Chaplain of St. Joseph Villa and has returned to live in New York State." Bishop LaRocque did not inform the government that Father Stone had breached one of the conditions stipulated by the Minister of Immigration. He also did not contact the local police. Nor did the Bishop advise the Montfort Fathers of Father Stone's misconduct and his return to the United States. Bishop LaRocque acknowledged in his evidence that "in retrospect," it would have been prudent to advise the Montfort Fathers of the misconduct of Father Stone. The Bishop also agreed that "it certainly would have been the proper thing" to advise the Ministry of Immigration of the reason for Father Stone's resignation and departure from the diocese. Nor did the Bishop contact the Ministry of Correctional Services to inform Father Stone's probation officer of the reason for the priest's departure. And significantly, the Bishop made no effort to contact the potential victims of Father Stone to assess whether they required counselling or other support and resources to deal with the alleged sexual abuse perpetrated by the priest. Bishop LaRocque made no effort to determine if Father Stone joined another parish in Canada or in the United States after he left Cornwall. He took the position that "it was not really my responsibility ... [W]hile he was here he was my responsibility, but not after he left my diocese ... I was relieved that he was gone."

This was also the case when the Ontario Provincial Police (OPP) requested information from the Bishop during the Project Truth investigation. The OPP asked Bishop LaRocque in 1998 to provide background information on a number of priests, Father Stone among them, to assist the police in its investigation. Bishop LaRocque simply provided the OPP with the places at which Father Stone had worked. When Bishop LaRocque was asked why he had not disclosed Father Stone's history of sexual misconduct, he responded, "I would have willingly given it to them if they had requested it, but I didn't think that that was part of their request." Bishop LaRocque clearly understood that the mandate of the OPP and Project Truth was to investigate sexual abuse of priests in the Diocese of Alexandria-Cornwall. Yet the Bishop failed, in his written response to the OPP, to divulge important information on priests such as Carl Stone. The Bishop acknowledged in his testimony that "in hindsight," perhaps he should have communicated this information to the police.

In my view, Bishop LaRocque and the Diocese failed to sufficiently investigate allegations of inappropriate contact with young people by Father Stone. It is also my conclusion that Bishop LaRocque and the Diocese failed to inquire into Father Carl Stone's background with the Montfort Fathers religious community about his past sexual conduct, and with Southdown about his assessment and treatment. The Diocese and Bishop LaRocque also omitted to take appropriate action to identify potential victims in relation to the allegations of inappropriate contact with young persons involving Father Stone. Finally, the Diocese and Bishop LaRocque ought to have informed the Montfort Fathers religious community of the occurrences at St. Joseph's Villa involving young persons and that Father Stone had left Canada.

Father Charles MacDonald

Father Charles MacDonald was ordained in June 1969 by Bishop Proulx and was appointed assistant priest at St. Columban's Parish in Cornwall. In 1970, he assumed responsibility for the training of altar boys at St. Columban's and came into contact with David Silmser, John MacDonald, and C-3. He also became involved with weekend retreats for some of the youth groups in the Church. In February 1974, Bishop Proulx asked Father MacDonald to assume responsibility for the Cursillo Movement in the Diocese of Alexandria-Cornwall.

Questions were raised by Church officials even before Father MacDonald was ordained. He attended Saint Paul Seminary from 1963 to 1969. At this time, he met Ken Seguin, a fellow theology student. A 1967 report from the seminary contained information that was critical of Charles MacDonald's conduct. Contrary to the rules of the seminary, he was visiting the rooms of other seminarians.

Charles MacDonald spent the summer with Monsignor Proulx, improved his attitude, and returned to the seminary. He completed his years of study and, as mentioned, was ordained in 1969. At that time, there was no trial period before ordination.

In 1975, Bishop LaRocque appointed Father MacDonald pastor of St. Anthony's Parish. It was a smaller parish than St. Columban's and Father MacDonald was the sole priest. He was responsible for all the programs and activities at the church, including the altar boys. Father MacDonald also became involved in the COR Movement, the English equivalent of the French "R3" Rencontre Movement. Youths entered the program in high school as early as grade 9.

In 1983, Father Charles MacDonald was appointed chaplain of Bishop Macdonell School. He had been moved in 1982 from St. Anthony's to St. Mary's Parish in Williamstown. Again, he was the sole priest of that parish. In 1988, Bishop LaRocque appointed Father MacDonald pastor of St. Andrew's Parish. The priest remained at that church until his resignation in October 1993, which occurred as a result of allegations of sexual abuse of young persons.

In December 1992, David Silmsier decided to contact the Roman Catholic Church to disclose that Father MacDonald had sexually abused him when he was a boy.

Monsignor Peter Schonenbach, the Bishop's delegate for the Archdiocese of Ottawa, spoke to David Silmsier on December 9, 1992. Mr. Silmsier disclosed that when he was an altar boy at St. Columban's Parish, Father MacDonald had sexually molested him. He said that Ken Seguin, a probation officer, had also sexually abused him. The same day, Monsignor Schonenbach spoke to Father Vaillancourt. It was decided that Monsignor Schonenbach would obtain further information on the Silmsier allegations and forward them to Monsignor McDougald. It became evident to Monsignor Schonenbach that clergy in the Diocese of Alexandria-Cornwall were "having real difficulty in coming around to realizing that this good priest could have done this."

Monsignor Schonenbach met with David Silmsier to discuss his allegations of abuse. On December 11, 1992, he wrote a letter to Monsignor McDougald, providing details of his meeting. His intention was to communicate that he considered these allegations to be serious and that he thought Monsignor McDougald should meet with Mr. Silmsier. Mr. Silmsier told Monsignor Schonenbach that the sexual abuse by the priest radically changed his life. He began to drink and became involved in petty crimes.

Mr. Silmsier had explained the reason why, as an adult, he was now contacting the Church. Monsignor Schonenbach wrote: "He told me he was raising the matter at this time because he wanted to lose the label of being a bad person,

he said: “for starters, I would like a letter from Father MacDonald acknowledging what he did so that I could show this to my mother.”” In his correspondence to Monsignor McDougald, Monsignor Schonenbach indicated that David Silmser appeared to be a “credible person.”

Monsignor Schonenbach sent a copy of the December 11, 1992, letter by registered mail to Bishop LaRocque. He wanted the Diocese to take this allegation seriously and for Monsignor McDougald to deal with Mr. Silmser’s concerns. Monsignor McDougald spoke to David Silmser after receiving the letter from Monsignor Schonenbach. Mr. Silmser reiterated that he was seeking an apology from Father MacDonald. However, officials at the Diocese of Alexandria-Cornwall did not make any arrangements to meet with Mr. Silmser for two months. A two-month delay to meet Mr. Silmser was clearly too long. The 1992 protocol states that the designated person is to meet the complainant within forty-eight hours.

According to the protocol, Monsignor McDougald was required to write a report of his meeting with the alleged aggressor and send it to the Bishop. However, Bishop LaRocque testified that he never read a written report on the meeting between Monsignor McDougald and Father MacDonald, nor did he know if a written report of the meeting had been filed in accordance with the protocol. Monsignor McDougald was also required, according to the protocol, to instruct Father MacDonald that he was not to have any contact with the victim or the victim’s family.

In addition, the CAS was to be notified if a minor was involved. If the CAS was not notified, the complainant was to be told the reason for this decision. In the Silmser matter, the CAS was not notified. Bishop LaRocque stated that confusion existed as to whether it was necessary to contact the CAS in cases of historical sexual assault. Monsignor McDougald, according to the protocol, should have notified Mr. Silmser to give him the reason for the decision not to contact the CAS. Bishop LaRocque agreed that if this did not occur, there was a breach of the protocol.

Bishop LaRocque testified that he considered the protocol a “serious guideline” for the Diocese. Initially, the Bishop took the position that his delegate rather than he was responsible for ensuring compliance with the provisions in the protocol. However, the Bishop agreed in his testimony the following day that it was in fact his responsibility to ensure this protocol was followed.

Bishop LaRocque agreed that the allegations against Father MacDonald in December 1992 were serious. He had received Monsignor Schonenbach’s report on his meeting with David Silmser and knew that Father MacDonald had denied the sexual molestation. The Bishop testified that he applied the test of “moral certitude” to decide whether to remove Father MacDonald from the ministry. He claimed that in December 1992, he did not have the moral certitude that

Father MacDonald had had sexual contact with David Silmser and was therefore not prepared to remove or even temporarily suspend the priest from his ministry.

Bishop LaRocque asserted that he had doubts about the credibility of David Silmser's allegations because Mr. Silmser had not made his complaint earlier. Clearly the Bishop did not understand the difficulties of disclosure of child sexual abuse.

Bishop LaRocque did not suspend the priest pending the investigation of the ad hoc committee. Nor did he impose restrictions on Father MacDonald's contact with children, teenagers, or young adults. From late 1992 until October 1993, the Bishop took no action with regard to removing Father MacDonald from his ministry.

On February 9, 1993, David Silmser met with Diocese officials. Monsignor McDougald, Father Vaillancourt, and Jacques Leduc were present. David Silmser told the Diocese officials that Father MacDonald had sexually molested him several times when he was a teenager. Neither Mr. Leduc nor the Diocese officials had training on interviewing alleged victims of sexual assault.

Mr. Silmser made it clear that he wanted a letter of apology from Father MacDonald to be sent to his mother. There was no discussion or request on his part for any financial compensation from the Diocese for the alleged sexual assaults perpetrated by the priest, nor any threat by Mr. Silmser that he would sue the Diocese.

Jacques Leduc asked Mr. Silmser if he would meet with the alleged perpetrator, Father MacDonald. This request surprised Father Vaillancourt. As Father Vaillancourt said in his evidence, arranging a meeting between the victim of a sexual assault and the alleged perpetrator was clearly not one of the steps in the 1992 Diocesan guidelines. It was threatening, intimidating, and frightening for an alleged victim who had mustered the courage to disclose the sexual abuse to the Diocese and who sought a public apology from the priest for the molestation so that his mother could understand his past conduct. I agree with Father Vaillancourt's assessment.

Diocese officials offered David Silmser psychological counselling. It was decided that Monsignor McDougald would report the meeting with David Silmser to the Bishop. According to the 1992 protocol, a written report of the meeting was to be prepared by the designate, who in this case was Monsignor McDougald. This was not done. Nor was a file opened as mandated by the 1992 protocol. Bishop LaRocque acknowledged that this violated the protocol. He also conceded that it was contrary to the principles of transparency and openness stressed in *From Pain to Hope*.

None of the Diocese officials at the February 9, 1993, Silmser meeting suggested speaking to the Bishop about the removal of Father MacDonald from

his position as parish priest at St. Andrew's Church. They knew that the priest continued to have contact with children and youths. From about February 1993 until August 1993, the Silmser matter essentially remained dormant.

On August 25, 1993, Malcolm MacDonald and Jacques Leduc met with Bishop LaRocque in his office. The Bishop testified that at this time, both men "were putting pressure on me" to settle the case. Bishop LaRocque was initially resistant to the prospect of a civil settlement. The confidentiality of the settlement also concerned him. He understood that by settling, David Silmser would be abandoning his right to sue the Diocese and also would be compelled to sign an undertaking not to disclose the settlement.

Bishop LaRocque asked whether a civil settlement by the Diocese with Mr. Silmser would have an impact on the criminal investigation by the police. He testified that the lawyers assured him that a civil settlement would have no effect on the criminal process.

Bishop LaRocque knew that a prime purpose of David Silmser's contact with the Church in December 1992 was to obtain a written apology to give to his mother to explain his past behaviour. Yet no discussion took place between the Bishop, Mr. Leduc, and Malcolm MacDonald regarding an apology to Mr. Silmser by Father MacDonald or the Diocese.

According to Bishop LaRocque, "a very heated argument" took place at the August meeting. Malcolm MacDonald and Jacques Leduc pressured him to agree to a civil settlement but the Bishop was not persuaded: "[T]hey were arguing strongly that I should do so, and I absolutely refused."

A couple of days after the meeting, Bishop LaRocque attended the annual meeting of the Canadian Conference of Catholic Bishops (CCCCB). In a closed session at the CCCC, child abuse by clergy and the responsibilities of bishops in such cases were discussed. Bishop LaRocque decided to raise the Silmser matter at this session, without identifying the priest or the alleged victim. He was strongly urged by his fellow bishops not to enter a monetary settlement. But as Bishop LaRocque acknowledged at the Inquiry, "My regret has been ever since that I didn't keep the same decision in the second meeting."

Father MacDonald's lawyer, Malcolm MacDonald, was intent on pursuing a civil settlement with the Diocese. He contacted Jacques Leduc after the August 25, 1993, meeting, and asked him to arrange a second meeting with Bishop LaRocque to further discuss the Silmser case. He told Mr. Leduc that he had contacted Mr. Silmser, who was prepared to agree to a settlement for \$32,000.

According to the Bishop's recollection, Malcolm MacDonald said that contact had been made with Mr. Silmser, who needed \$20,000 for counselling costs and \$12,000 as compensation for damages for the alleged sexual abuse. Malcolm MacDonald said he would find the other \$12,000, but did not provide

details. The Bishop was not told how that amount was arrived at, nor that Malcolm MacDonald had negotiated this sum with David Silmsen, who did not have legal representation when this discussion occurred. Both Malcolm MacDonald and Jacques Leduc were anxious for the Diocese to enter this settlement. Mr. Leduc “in very forceful terms” tried to persuade the Bishop to agree to the settlement.

Bishop LaRocque testified that his principal concern, which he stressed to the two lawyers, was that the civil settlement entered into by Mr. Silmsen have no effect on the criminal investigation by the police or on the criminal process as a whole. At the hearings, the Bishop maintained that he was persuaded to enter the settlement on the basis that the Diocese needed to fulfil its undertaking to pay Mr. Silmsen for counselling and psychological treatment. The Bishop also conceded that he had agreed to the civil settlement because he wanted Father MacDonald to continue exercising his ministry. The lawyers also discussed with the Bishop the importance of avoiding scandal with respect to the Church and ensuring that Father MacDonald’s reputation was not adversely affected. Bishop LaRocque knew that Mr. Silmsen would be asked by the lawyers to sign a release to the effect that in exchange for the monetary payment, he would not sue the Diocese. He was also aware that a confidentiality provision would be included in the settlement documents to prevent Mr. Silmsen from discussing the settlement with third parties.

Bishop LaRocque never asked Jacques Leduc to review the civil settlement documents before they were signed by Mr. Silmsen. The Bishop testified that he would never have authorized the settlement with David Silmsen if he had known that the documents contained a clause that imposed a halt to the pursuit of criminal proceedings. Despite the fact that Bishop LaRocque had raised the Silmsen case at the CCCB and had been advised not to agree to a civil settlement, the Bishop of Alexandria-Cornwall succumbed to the pressure of Father Charles MacDonald’s lawyer and Diocese lawyer Jacques Leduc. “I’ve regretted it ever since,” said Bishop LaRocque in his testimony at the Inquiry.

Mr. Leduc testified that it was agreed that Malcolm MacDonald would prepare the civil settlement documents. But Mr. Leduc received a call from Father MacDonald’s lawyer requesting his help, as Malcolm MacDonald practised principally in the area of criminal law. Mr. Leduc had previously acted for victims of abuse by clergy in Quebec, and agreed to search for a legal precedent that could assist in the drafting of the release and the undertaking not to disclose.

Mr. Leduc testified that he dictated a draft of the release, which was typed by his secretary. There was no reference to withdrawing from the criminal investigation. He sent the document to Malcolm MacDonald by fax, who returned it with changes. The document altered by Malcolm MacDonald contained

references to criminal proceedings, which Mr. Leduc stroked out. Mr. Leduc stated that he called Malcolm MacDonald to confirm that all references to criminal proceedings were deleted from the document. Mr. Leduc knew that inserting a clause that impeded the criminal process would be void and against public policy.

Mr. Leduc testified that the document he drafted was not the document that was signed by David Silmsner. He testified that the release he prepared did not contain a clause that referred to the criminal process. However, it is essential to note that the document signed by David Silmsner and witnessed by his lawyer, Sean Adams, on September 2, 1993, contained a clause that stipulated that Mr. Silmsner could not undertake “any legal proceedings, civil or *criminal*” and was to “immediately terminate any actions that may now be in process.”

Sean Adams testified that he was reluctant to act for David Silmsner when he received his call. He decided to discuss the Silmsner request with a senior partner at his law firm. The senior partner suggested that he make it clear to David Silmsner that his retainer for independent legal advice was limited to witnessing Mr. Silmsner’s signature on the settlement documents and giving him advice with respect to the release and undertaking not to disclose. Mr. Adams agreed to represent Mr. Silmsner and met him privately in Malcolm MacDonald’s office on September 2, 1993. Mr. Adams read the release and undertaking not to disclose, as well as the certificate of independent legal advice. These documents had been prepared prior to Mr. Adams’ arrival at the office:

FULL RELEASE AND UNDERTAKING NOT TO DISCLOSE

FROM: David Silmsner, Hamlet of Hammond, in the Counties of
Prescott & Russell

TO: Father Charles MacDonald and to the Most Reverend Eugene
P. Larocque, Bishop, and to his successors and assigns, and
to The Roman Catholic Episcopal Corporation for the Diocese
of Alexandria-Cornwall in Ontario.

1. In consideration of the payment to me, of the sum of—Thirty Two Thousand—(\$32,000.00)—00/100 DOLLARS receipt of which is hereby acknowledged, I, David Silmsner, of the Hamlet of Hammond, Province of Ontario, ... hereby release and forever discharge Father Charles MacDonald, The Most Reverend Eugene P. Larocque and the Roman Catholic Episcopal Corporation for the Diocese of Alexandria-Cornwall in Ontario, from any and all actions, causes of actions, claims and demands, for damages incurred or to be incurred, foreseen and unforeseen, for any loss, or injury, both physical, emotional or other, howsoever arising,

which heretofore may have been, or may hereafter be sustained by me in consequence of any conduct, behavior or act done to me directly or indirectly by Father Charles MacDonald or by any other agent or employee of The Roman Catholic Episcopal Corporation for the Diocese of Alexandria-Cornwall in Ontario, including all damage, loss or injury not now known or anticipated but which may arise in future and all effects and consequences thereof.

2. *In addition to the aforesaid release and for the said consideration, I hereby undertake not to take any legal proceedings, civil or criminal, against any of the parties hereto and will immediately terminate any actions that may now be in process.*
3. In addition to the aforesaid release and for the said consideration *I further hereby undertake not to disclose or permit disclosure directly or indirectly of any of the terms of this settlement or of any of the events alleged to have occurred.* Breach of this undertaking will constitute a breach of settlement agreement as evidenced by this release and I will refund all amounts paid to me forthwith.
4. And for the said consideration, I further agree not to make a claim or take any proceeding or participate in same, against any other person or corporation who might claim contribution or indemnity under the provisions of The Negligence Act and the Amendments thereto from the person, persons or corporations discharged by this release.
5. It is further understood and agreed that the said payment is deemed to be no admission whatsoever of liability on the part of the said Father Charles MacDonald, The Most Reverend Eugene P. Larocque, Bishop, his successors and assigns and The Roman Catholic Episcopal Corporation for the Diocese of Alexandria-Cornwall in Ontario.
6. I hereby authorize and direct the releasees to pay the said consideration to me.
7. I also acknowledge having received independent legal advice prior to executing this full and final release as evidenced by the Certificate of Independent Legal Advice signed by my solicitor and myself, attached hereto.

IN WITNESS whereof, I have hereunto set my hand and seal, this 2nd day of September, 1993.

David Silmsner (Emphasis added)

Mr. Adams testified that he reviewed the settlement documents with Mr. Silmsner.

Malcolm MacDonald made it clear that Mr. Silmsner was required to go to the Cornwall police station to advise the police that he did not wish to proceed with the criminal charges.

On September 2, 1993, Mr. Leduc instructed the bursar for the Diocese, the Reverend Gordon Bryan, to write a cheque in the amount of \$27,000, payable to his firm in trust. It was Reverend Bryan's practice to seek Bishop LaRocque's authorization for cheques issued by the Diocese in such amounts. When the bursar asked Bishop LaRocque if he approved the \$27,000 payment, the Bishop replied, "Reluctantly, yes." Reverend Bryan issued the cheque on September 2, 1993, in the amount of \$27,000. The payee on the cheque was Jacques Leduc's law firm, Leduc, Lafrance-Cardinal.

Mr. Leduc deposited this cheque from the Diocese into his trust account and then issued a cheque in that amount to Malcolm MacDonald in trust. Mr. Leduc testified that he assumed from his discussions with Malcolm MacDonald that Father Charles MacDonald would contribute \$5,000. Mr. Silmsner received a cheque on Malcolm MacDonald's trust account for the total amount of the civil settlement, \$32,000. It was not apparent from the face of the cheque that \$27,000 had been paid by the Diocese.

Malcolm MacDonald brought the executed documents to Mr. Leduc's office in a brown envelope. Mr. Leduc testified that he did not read the executed documents.

On September 2, 1993, David Silmsner wrote a note to the CPS to the effect that he had received a civil settlement to his satisfaction and did not wish to proceed further with any criminal charges against Father MacDonald.

About a week after receiving the cheque from Reverend Bryan, Mr. Leduc gave him a brown envelope that contained the settlement documents. Mr. Leduc explained to Gordon Bryan that this was a full release, and the bursar assumed that the money had been received. Mr. Leduc instructed him to seal the document well and to inscribe on the envelope "Private & Confidential—To Be Opened by Bishop Only."

Malcolm MacDonald was subsequently charged by the Ontario Provincial Police with attempting to obstruct justice regarding the release signed by Mr. Silmsner. Mr. MacDonald pleaded guilty and on September 12, 1995, he received an absolute discharge.

Cornwall Police Meet With Bishop LaRocque

Five or six weeks after Bishop LaRocque agreed to the civil settlement with David Silmsner, Cornwall Chief of Police Claude Shaver and Staff Luc Sergeant Brunet met with the Bishop. Bishop LaRocque told the officers that he had authorized a payment of \$32,000 to David Silmsner and that the settlement had

been negotiated with Malcolm MacDonald and Jacques Leduc. The settlement documents were not reviewed at the meeting.

Chief Shaver expressed his discontent that the Diocese had failed to contact the police. The Bishop replied that Father MacDonald had denied the allegations of sexual abuse and that he believed the priest had not committed these acts. Chief Shaver told Bishop LaRocque that David Silmser was not the only person who had alleged abuse by the priest. He informed the Bishop that two other people had claimed that Father MacDonald had engaged in sexually inappropriate behaviour with them. Bishop LaRocque became visibly upset when he learned that there were additional victims who had alleged they had been sexually abused.

Bishop LaRocque testified that he met with Father MacDonald that evening. The priest denied that he had sexually assaulted Mr. Silmser or other people. He stated that if he had sexual relations, it was always on a consensual basis. Father MacDonald then conceded that he had had sexual relations with more than one person.

Bishop LaRocque called Chief Shaver that night. He relayed his discussion with Father MacDonald to the police chief. According to Chief Shaver, the Bishop said the priest had admitted the assault, and then abruptly said that it was not an assault but rather an isolated homosexual relationship.

Father MacDonald was asked to leave the parish and was sent to Southdown two days later for an assessment. Approximately ten months after David Silmser had disclosed to the Diocese that Father Charles MacDonald had sexually abused him, the priest was finally removed from his ministry.

On October 12, 1993, the Bishop met at his office with CAS Executive Director Richard Abell, Bill Carriere, and Angelo Towndale. Bishop LaRocque had been told by Chief Shaver that the CAS was aware of the Silmser allegations of sexual abuse and that the agency was initiating an investigation. Although the 1992 *From Pain to Hope* report had stressed the principles of transparency and openness, Bishop LaRocque was clearly resistant to the CAS investigation and worried about the effects of it on parishioners and on the Diocese as a whole. When the CAS officials asked for a copy of the letter from Monsignor Schonenbach, Bishop LaRocque refused, claiming the correspondence was “confidential.”

On October 30, 1993, at Bishop LaRocque’s request, Father MacDonald sent a letter of resignation to the Bishop.

The Diocese Issues a Press Release

On January 6, 1994, a newspaper article appeared in the *Standard-Freeholder*. It stated that a male, who alleged he had been abused twenty years earlier by a priest when he was a boy, may have been paid \$30,000 in 1993 “to drop his criminal complaint.”

Bishop LaRocque issued a media release the following day stating that the Diocese had acted in accordance with the “Diocesan Guidelines on Sexual Abuse by Priests, Deacons, Seminarians and Pastoral Assistants,” which he attached. But, as mentioned, these guidelines were not strictly followed by the Diocese in the Silmsers case. For example, the written report required by Phase 1 of the protocol on receipt of the complaint was not prepared. Also, the notification procedures to the CAS delineated in Phase 5 were not followed.

On January 13, 1994, an article was published in the *Ottawa Citizen*. It contrasted the principle of transparency advocated in the 1992 Canadian Conference of Catholic Bishops report *From Pain to Hope*, with the \$32,000 Silmsers settlement offered by the Diocese of Alexandria-Cornwall.

The following day, Bishop LaRocque held a press conference. Jacques Leduc was present. The Bishop maintained that he had “reluctantly” agreed to a settlement of a civil dispute in which both the Diocese and the priest in question had contributed funds. He acknowledged that this was “not the prudent way” to handle this situation and that he “should have maintained [his] original position” and not agreed to the civil settlement. Bishop LaRocque had not yet seen the settlement documents and claimed that he was unaware of the offending clause that prohibited David Silmsers from involvement in the criminal investigation of Father MacDonald.

After issuing the January 14, 1994, statement, Bishop LaRocque had an opportunity to read the settlement documents. At this time, he realized that the information he had conveyed to the public was inaccurate. He testified that he was shocked to see the clause prohibiting Mr. Silmsers from continuing his involvement in the criminal process.

Jacques Leduc claimed that he had still not read the settlement documents delivered to him in early September 1993 at the time of the January 14, 1994, press release. He claimed that it was not until January 19, 1994, when Mr. Silmsers’ lawyer notified him by letter, that he became aware that the release contained the offending clause.

Bishop LaRocque issued another press statement on January 23, 1994, in which he acknowledged that the settlement entered into by the Diocese with David Silmsers had interfered with the criminal investigation by the CPS. He apologized for “unwittingly misrepresenting this fact” and stated that this offending provision in the settlement document was “morally unjust.”

The Bishop understood that the clause in the settlement document was not only “morally unjust”—it was illegal. The Bishop ended the Diocese’s retainer on this matter with Jacques Leduc and hired David Scott of Scott and Ayles.

In January 1994, Bishop LaRocque received a letter from a former altar boy at St. Columban’s Parish, C-3, who wrote: “Fr. Charles was always trying to grab at my groin when no one was around.” In the following year, the Bishop

learned that another former altar boy at St. Columban's Parish, John MacDonald, alleged that he too, had been sexually abused by Father MacDonald. C-4 was another former altar boy who alleged that he was also sexually abused by Father MacDonald. It was evident to the Bishop that many boys and other young men in the Diocese claimed that they too had been sexually abused by this priest.

In January 1995, Richard Abell of the CAS wrote to Bishop LaRocque to inform him that as a result of the investigation, there was reasonable and probable cause to believe that Father MacDonald had abused a child and that he might continue to constitute a risk to both children and young adults. The agency was concerned with future clerical assignments of Father MacDonald in the Diocese. But despite this letter from the CAS, Father MacDonald remained incardinated in the Diocese. The prospect of initiating canonical proceedings to remove him from priesthood "didn't enter" Bishop LaRocque's "mind at that time," but the Bishop commented, "It probably would with the knowledge that I have now and procedures that are taking place at present."

It was not until the end of January 1998, over five years after the Silmsers complaint, that Bishop LaRocque asked Father MacDonald to retire officially from active ministry. Father MacDonald was sixty-five years old.

It is clear from the evidence that the Diocese of Alexandria-Cornwall and Bishop LaRocque delayed investigating the allegations of inappropriate contact with young persons by Father MacDonald. They failed to take appropriate action to identify potential victims with respect to the allegations against Father MacDonald. They also failed to take appropriate action to ensure that young persons in the community would not be at risk in relation to Father MacDonald. Moreover, the Diocese and Bishop LaRocque did not advise either police agencies or the CAS of the allegations of sexual abuse involving Father MacDonald and young people.

It is my view that the Diocese and Bishop LaRocque did not provide adequate training for diocesan personnel and clergy on the appropriate response to allegations of sexual misconduct by clergy involving young persons. Monsignor McDougald failed to follow the policies and guidelines in place to respond to allegations of misconduct. Furthermore, it is evident that Jacques Leduc did not act appropriately when representing the Diocese of Alexandria-Cornwall in the settlement between the Diocese, David Silmsers, and Father Charles MacDonald by delegating the handling of the settlement to Malcolm MacDonald, counsel for Father Charles MacDonald, and failing to read the release and undertaking either before or after it was signed by David Silmsers on September 2, 1993. He also failed to follow practices and procedures to ensure that files, notes, and records of allegations of clergy sexual abuse were properly stored and were retrievable.

Father Romeo Major

Father Romeo Major was a priest in the Diocese of Alexandria-Cornwall. He was incardinated in 1964 and remained a priest in the Diocese when Paul-André Durocher became the Bishop in 2002.

It was in October 1999 that the OPP, as part of the Project Truth investigation, contacted Bishop LaRocque with a request for information. Detective Inspector Pat Hall told Bishop LaRocque that the OPP would be contacting altar boys and girls in the 1975 to 1979 period, in locations “where Father Major was a priest.” The officer asked the Bishop to provide a list of the names of the altar boys and girls as it would assist the police and, moreover, would avoid unnecessary inquiries of people in the community.

Bishop LaRocque was aware at this time that there was an allegation of abuse by Father Major with a girl.

According to the notes of CAS worker Lorne Murphy, Mr. Murphy received a telephone call on November 1, 1999, from Bishop LaRocque, who asked to speak to Richard Abell. Mr. Murphy explained to Bishop LaRocque that Mr. Abell was away from the office. The Bishop told Mr. Murphy that Detective Inspector Hall had spoken to him about an investigation into allegations of sexual touching of a girl committed about twenty-five years earlier by Father Major of St. Martyr’s Church. Mr. Murphy stated that he would convey this information to Mr. Abell and to Mr. Bill Carriere.

On April 10, 2000, Father Major wrote to the Bishop to advise him that he had been arrested by the police that morning. The priest was charged with indecent assault of a young girl that allegedly took place between 1974 and 1976. The matter had now become public and Father Major asked Bishop LaRocque to relieve him of his duties as pastor of his parish.

Prior to the scheduled preliminary inquiry, the Bishop decided that he would send Father Major to Southdown Institute for an assessment after the preliminary inquiry was completed. It was originally scheduled for November 2000 but did not take place until September 2001. The criminal case concerned an allegation of sexual abuse of a girl between eight and eleven years old. It was a historical sexual abuse case. Father Major denied that he had committed sexual improprieties on this alleged victim.

In a letter sent to Bishop LaRocque in May 2001, Mr. Raymond Dlugos, a psychologist at Southdown Institute, wrote that an objective of Father Major’s “treatment is to explore sexuality and address issues related to allegations of sexual misconduct.” The psychologist stated that although the priest had denied the allegations, “he acknowledges the possibility that he was not as prudent

in maintaining professional boundaries at the time the misconduct is alleged to have occurred.” Bishop LaRocque and the Diocese did not take adequate measures to investigate the allegations against Father Major when this information was received.

On October 10, 2001, charges were withdrawn by the Crown as a result of a serious illness suffered by the complainant that affected the woman’s memory. At the request of Father Major, Bishop LaRocque wrote a letter to the parishioners of St. Martyr’s Church a few days after the withdrawal of the criminal charge.

Bishop LaRocque knew that the criminal charges had been withdrawn as a result of the illness of this woman. He knew that the matter was never adjudicated by the courts. Yet the Bishop told parishioners in Father Major’s church that the courts had concluded that there was no legal case. And he told parishioners that it was with joy that he was reinstating Father Major to his ministerial functions at the parish. Despite the fact that criminal charges had been laid against the priest for indecently assaulting a young girl, the Bishop decided that Father Major did not present a risk to other young girls in the community or other young people in his parish. Bishop LaRocque came to this conclusion without an internal investigation by the Diocese of the allegations of abuse against Father Major.

It was clear that the charges against Father Major were withdrawn for reasons other than the merits of the case. In such circumstances, the employer, in this case the Diocese, should automatically conduct a review of the incident to determine whether the priest constitutes a risk to the people with whom he has contact and whom he serves.

In my view, the Diocese and Bishop LaRocque failed to sufficiently investigate allegations of inappropriate contact of Father Romeo Major with young persons. Moreover, the Diocese, Bishop LaRocque, and Bishop Durocher failed to take appropriate action to identify potential victims of Father Major in relation to allegations of inappropriate contact with young persons. It is also clear that Bishops LaRocque and Durocher, as well as the Diocese of Alexandria-Cornwall, did not take appropriate measures to ensure that young persons in the community were not at risk in relation to Father Major.

It is my recommendation that the Diocese monitor preliminary inquiries or trials of priest and other clergy charged with sexual offences.

Father Paul Lapierre, Father René Dubé, and Father Don Scott

Father Paul Lapierre was incardinated in the Diocese of Alexandria in 1959. Although he left the Diocese before Eugène LaRocque became the Bishop in 1974, Father Lapierre remained incardinated in the Diocese of Alexandria.

Church officials in the Diocese testified that in the late 1950s or early 1960s, there were rumours circulating about Father Lapierre. Father Lebrun testified

that there were rumours about Father Lapierre's sexual involvement with a young man in his parish. Similarly, the Reverend Bryan heard rumours about Father Lapierre in that period.

Father Lapierre was investigated by the OPP and criminally charged as part of Project Truth. Claude Marleau was one of the alleged victims interviewed by the OPP who disclosed that a number of priests and other men had abused him, including Fathers Paul Lapierre, Don Scott, and René Dubé.

On March 17, 1998, Detective Constables Don Genier and Joe Dupuis interviewed Father Lapierre. One year later, Detective Sergeant Pat Hall contacted Bishop LaRocque to inform him that Fathers Dubé and Lapierre were also under criminal investigation by the Montreal police.

According to Bishop LaRocque, Father Dubé contacted him as soon as he became aware of the police investigation. Father Dubé, a priest at Saint-Croix Parish in Cornwall was very concerned. People in his parish had learned about the charges against him and were upset. Father Dubé was charged for sexually assaulting a teenaged boy in Quebec in 1965, when Father Dubé was in the seminary. Father Lapierre was also charged with gross indecency and indecent assault with regard to this youth. Fathers Lapierre and Dubé were co-accused in the Quebec prosecution

Bishop LaRocque contacted Father Lapierre to assess whether there was any veracity to the allegations. Father Lapierre told the Bishop that Father Dubé was innocent and had not been involved in the sexual abuse. Father Lapierre informed the Bishop that he and another priest had participated in this incident. He identified the other priest as Father Scott.

Bishop LaRocque claimed at the hearings that he was concerned about former parishioners who might have been sexually abused by Father Scott. But he did not take any steps after he received the information from Father Lapierre in June 1999 to identify these individuals. The Bishop did not contact Claude Marleau, a victim of sexual abuse, who was at that time practising law in Quebec City.

Claude Marleau testified at the Inquiry that Roch Landry had introduced him to Father Lapierre, who, he said, became the most important figure in his adolescence. Mr. Marleau stated that he was first abused by Father Lapierre in the priest's room. He testified that the sexual abuse occurred many times. Claude Marleau also testified that he was brought to Father Scott's residence by Father Lapierre and that the two priests had sexually abused him.

Bishop LaRocque met with both the Parish Council and Finance Council of the Diocese after he spoke to Father Lapierre. The Bishop told the council members that he was morally certain, from a conversation with a "reliable source," that Father Dubé was innocent of the charges of sexual assault. He asked the members if he could breach the protocol and allow Father Dubé to continue to exercise his ministry.

Father Lapierre was convicted of abusing Claude Marleau in Montreal but was acquitted in the Cornwall trial, at which Mr. Marleau was also one of the alleged victims. Bishop LaRocque testified at the Inquiry that he did not know that Father Lapierre had appeared before the Ontario courts on charges of sexual abuse involving Claude Marleau. But he acknowledged that an article was published in the *Ottawa Citizen* at that time regarding the Lapierre trial in Cornwall and that this matter had been brought to his attention.

Bishop LaRocque did not contact either the police or the Crown's office to provide the information that had been conveyed to him by Father Lapierre that he and Father Scott, priests in the Bishops' Diocese, had been involved in a sexual incident. The Bishop agreed at the hearings that "in hindsight, I should have let people know ... I didn't think of it." In retrospect, he acknowledged that this information might have been of assistance to Mr. Marleau and to the police and prosecutors dealing with these sexual abuse cases.

Bishop LaRocque gave two reasons why he did not report to the police the information imparted to him by Father Lapierre: (1) Father Scott was dead; and (2) the police were already investigating the sexual assault allegation against Father Lapierre. I do not find these reasons convincing. Father Lapierre had admitted to Bishop LaRocque that he had sexually abused a boy. Moreover, another bishop in the United States had discussed his concerns about Father Lapierre's inappropriate behaviour, and Bishop LaRocque knew there were allegations that the priest had propositioned an undercover officer. Bishop LaRocque agreed that he could have been more forthcoming and communicated this information about priests such as Father Lapierre and Father Scott to the police.

After the trials against Father Lapierre had concluded and he was convicted in Montreal, Bishop LaRocque did not contact Claude Marleau.

Father René Dubé sent a letter of resignation to Bishop LaRocque on June 20, 1999. Bishop LaRocque indicated on June 23, 1999, that he was not required to accept the priest's resignation and that he was morally certain that Father Dubé was innocent. The Bishop took the position that he was not breaching the diocesan protocol.

Charges had been laid and the matter was public. The conditions were present. Yet Bishop LaRocque took the position that he was not contravening the protocol by refusing to remove the priest from Church duties. Bishop LaRocque maintained that he was morally certain Father Dubé was innocent because of his telephone conversation with Father Lapierre.

Bishop LaRocque explained that he did not follow the diocesan guidelines with respect to Father Dubé because he did not want the priest to be doubly punished by the criminal system and by the Diocese. I do not find this a persuasive reason. The Bishop relied upon the conversation he had with Father Lapierre.

The Bishop did not undertake any investigation or conduct other interviews to inform himself of the credibility of the allegations made against Father Dubé.

Father Don Scott was also a priest in the Diocese of Alexandria when Eugène LaRocque became the Bishop. Bishop LaRocque knew that Father Lapierre and Father Scott were friends.

In June 1984, Father Scott wrote to Bishop LaRocque to inform him that he had left the Dominican Brothers and was living in Montreal with a man. The priest remained incardinated in the Diocese of Alexandria-Cornwall. Claude Marleau testified that Father Lapierre introduced Father Scott to him and that both priests abused him sexually. Father Scott died in 1988 before Project Truth and consequently was not charged for the alleged sexual abuse perpetrated on Claude Marleau.

When Paul-André Durocher was installed as Bishop in June 2002, Father Dubé was exercising his ministry without limitations, as he had been acquitted of the criminal charges. Father Lapierre, who was still incardinated in the Diocese, had retired in Montreal. Father Lapierre had been acquitted of the charges in the Ontario prosecution. However, the criminal prosecution in Quebec was ongoing.

Bishop Durocher testified that the Diocese did not seek out the victims of Father Lapierre to determine whether they required counselling. Nor did Diocese officials monitor his 2001 trial in Cornwall for the purpose of identifying victims of abuse by priests in the Diocese. Eugène LaRocque was the Bishop at that time. In cross-examination at his trial in September 2001, Father Paul Lapierre said that Father Scott had discussed with him Father Hollis Lapierre's relationship with Claude Marleau. He was told by Father Scott that Father Hollis Lapierre had pictures of naked boys, including photos of Claude Marleau. He said that after Father Hollis Lapierre died in the mid-1970s, Father Scott, the executor of the priest's will, had destroyed the pictures and magazines that had been behind his bed.

Bishop Durocher agreed that it would have been beneficial for the Diocese to monitor the Father Paul Lapierre trial. Victims who alleged that they had been sexually abused by other priests in the Diocese would have been identified.

After Father Lapierre was found guilty in Quebec in June 2004, Bishop Durocher told him that there was a limitation on his faculties. Father Lapierre was not to exercise any public ministry. He was prohibited from preaching and hearing confessions. Although Father Lapierre resided in Montreal, he was still incardinated in the Diocese of Alexandria-Cornwall. Bishop Durocher learned that Father Lapierre was celebrating weekend masses at a church in Montreal. Bishop Durocher instructed the priest to immediately stop exercising his ministerial functions. He also wrote a letter in October 2004 to the Archdiocese to verify that Father Lapierre was not celebrating mass.

The clerical status of Father Lapierre was not removed by the Church. Bishop Durocher explained that loss of clerical status can be imposed only in a penal canonical process and that there is a ten-year limitation period. In other words, in canon law, there is a ten-year limitation period on sexual abuse allegations that begins when the victim reaches eighteen years old. The problem that arose in the Father Lapierre situation, explained Bishop Durocher, was that Claude Marleau was older than twenty-eight years of age when he came forward with the allegations of abuse against the priest.

It is clear that the Diocese and Bishop LaRocque did not sufficiently investigate the allegations of inappropriate contact with young persons by Father Paul Lapierre and Father René Dubé. The Diocese and Bishop LaRocque also knew from Father Lapierre of inappropriate contact by Father Scott with a young person. It is also evident that the Diocese and Bishop LaRocque failed to offer counselling and support to Claude Marleau, who alleged he had been abused as a youth by those priests.

In my view, the Diocese and Bishop LaRocque failed to take appropriate action to ensure that young persons in the Diocese were not at risk of sexual abuse by these members of the clergy. Moreover, the Diocese, Bishop LaRocque, and Bishop Durocher failed to take appropriate action to identify potential victims in relation to inappropriate contact by these members of the clergy.

Prior to the Inquiry, Bishop Durocher had no knowledge of Father Lapierre's evidence in either the Quebec or Ontario criminal proceedings. It is my recommendation that the Bishop and Church officials of the Diocese monitor and/or obtain information on the legal proceedings in which clergy in the Diocese are subject to charges or lawsuits involving sexual abuse of young persons.

Father Ken Martin

Father Ken Martin was ordained in the Diocese of Alexandria in 1958 by Bishop Brodeur. He served at several parishes in Cornwall, including St. Columban's, Nativity, St. Francis de Sales, and St. Martin de Tours.

In July 1997, Claude Marleau reported to OPP Detective Constable Don Genier that he had been sexually assaulted as a youth by a number of priests and other men, including Father Martin. In his statement to Detective Constable Genier on July 31, 1997, Claude Marleau described the details of the alleged sexual abuse by Father Martin. Mr. Marleau also told the OPP officer that Father Martin was a friend of his other alleged abusers, Fathers Lapierre and Scott. Mr. Marleau said that Father Lapierre had introduced him to Father Martin.

On July 9, 1998, Father Martin was arrested by the OPP for indecent assault and gross indecency committed against Claude Marleau. On March 16, 1999, Father Martin was arrested by the OPP for indecently assaulting C-109, contrary

to section 148 *Criminal Code*. Father Martin was committed to stand trial on May 27, 1999.

The indictment of Father Martin was dated July 29, 1999. The indictment alleged that between January 1, 1966, and December 31, 1967, Father Martin indecently assaulted and committed an act of gross indecency on Claude Marleau, contrary to sections 148 and 149 *Criminal Code*, and that between January 1, 1971, and June 12, 1972, he indecently assaulted C-109. Father Martin pleaded not guilty to all counts. At the trial, Father Martin denied sexual encounters with Claude Marleau and with C-109. The issue of consent arose at the trial. Father Martin was found not guilty by Justice Robert Cusson of the Ontario Superior Court.

When Claude Marleau came forward to the OPP in 1997 with his allegations of abuse, Father Martin was incardinated in the Diocese of Alexandria-Cornwall but was working as a chaplain in Montreal in a home for the aged. After he was charged with the alleged abuse of Claude Marleau and C-109, Father Martin continued to be involved in official religious work.

At his trial in 2001, Father Martin testified that he was practising as a priest in Pointe Claire, Quebec. He was celebrating mass for people with disabilities and was the chaplain of Villa Marguerite, a convent for nuns and a retreat house. Father Martin also stated that he performed baptisms, marriages, and funerals. Bishop LaRocque testified that neither he personally nor anyone acting on his behalf followed the preliminary inquiry or trial of Father Martin.

Bishop Durocher did not recall having discussions with Bishop LaRocque regarding Father Martin. He learned that Father Martin was retired in Montreal and doing replacement ministry in the Diocese of Montreal. At the time of his testimony, Bishop Durocher confirmed Father Martin was still incardinated in the Diocese of Alexandria-Cornwall.

The 1996 “Diocesan Guidelines on Sexual Abuse by Priests, Deacons, Seminarians and Pastoral Assistants” were in effect at the time criminal charges were laid against Father Martin. Father Martin was not removed from pastoral duties when he was charged.

In my view, the Diocese and the Bishop of the Diocese of Alexandria-Cornwall should have monitored the preliminary inquiry and trial of Father Ken Martin for allegations of sexual abuse against two young people in Cornwall. It is clear that the Diocese and Bishop LaRocque did not sufficiently investigate the allegations of inappropriate contact by Father Martin with these young persons. Given that Father Martin remained incardinated in the Diocese of Alexandria-Cornwall, the Bishop and the Diocese ought to have taken measures to ensure that relevant information was provided to outside dioceses regarding the allegations and that Father Martin’s faculties were removed. Moreover, the Diocese of Alexandria-Cornwall, Bishop LaRocque, and Bishop Durocher

did not attempt to identify other potential victims in relation to allegations of inappropriate contact with young persons by Father Martin. In addition, the Diocese, Bishop LaRocque, and Bishop Durocher do not appear to have provided counselling assistance and support to alleged victims of Father Ken Martin, such as Claude Marleau.

Father Hollis Lapierre

Father Hollis Lapierre was ordained in Quebec in 1949 by Bishop Brodeur. He was at several parishes in the Cornwall area from 1950 until his death in 1975. They included St. John Bosco, St. Columban's, St. Félix-de-Valois, Sacred Heart, Nativity, Greenfield, and Ingleside.

In 1965, Father Lebrun received a complaint of alleged sexual abuse involving Father Hollis Lapierre. A young man about twenty years old came to see Father Lebrun. Father Lebrun stated that he did not discuss this matter with Father Lapierre.

After this meeting with the young man, Father Lebrun went to see Joseph-Aurèle Plourde, the Auxiliary Bishop at the time, and related what this individual had told him about Father Lapierre. Bishop Plourde did not discuss what he intended to do with this information. Father Lebrun's involvement in this matter ended and he did not encounter the young man again.

Father Hollis Lapierre died prior to the OPP Project Truth investigation. Claude Marleau disclosed to the OPP in the Project Truth investigation that he had been sexually abused by several men, including Father Hollis Lapierre. At that time, Claude Marleau was a high school student. He stated that Fathers Hollis Lapierre, Don Scott, and Paul Lapierre were good friends. Mr. Marleau alleged that all three priests abused him, as did other men in the Cornwall community.

At Father Paul Lapierre's Ontario trial in 2001, the accused priest testified, "Father Donald Scott ... shared with me ... about Father Hollis Lapierre[']s relationship with Claude Marleau ... how expensive it was ... I was told by Father Don Scott ... that Father Hollis Lapierre kept Polaroid pictures of naked boys." Father Paul Lapierre testified that his conversation with Father Scott took place after the death of Father Hollis Lapierre in 1975.

Father Paul Lapierre testified at his trial in Ontario that he learned through Father Scott that Claude Marleau had been abused by Father Hollis Lapierre. Paul Lapierre further stated at his trial that he did not reveal the information provided to him by Father Scott regarding the abuse by Father Hollis Lapierre. Bishop LaRocque acknowledged that the evidence with regard to Father Hollis Lapierre at the trial of Father Paul Lapierre would have been of concern to him and other Church officials in the Diocese.

Bishop Durocher has no recollection of any discussion with Bishop LaRocque regarding Father Hollis Lapierre. Bishop Durocher did not contact Claude Marleau after Father Paul Lapierre's criminal conviction in Quebec. Perhaps if he had done so, he would have learned about the allegations of sexual abuse perpetrated by Hollis Lapierre in Mr. Marleau's youth.

Mr. Marleau confirmed at the Inquiry that he was never contacted by the Diocese of Alexandria-Cornwall after the judgment of Justice Lalonde in Father Paul Lapierre's trial. He said that the Diocese never apologized to him and never communicated with him to discuss the comments regarding Father Hollis Lapierre.

In my view, the Diocese, Bishop LaRocque, and Bishop Durocher failed to take appropriate action to identify potential victims of Father Hollis Lapierre. Had Father Paul Lapierre's criminal proceedings been followed or the transcript reviewed, potential victims of Father Hollis Lapierre could have been identified. It is also clear that the Diocese failed to provide counselling or assistance to alleged victims abused by Father Hollis Lapierre, such as Claude Marleau.

Father Lucien Lussier

Father Lucien Lussier was ordained in 1955 by Bishop Brodeur at St. Finnan Cathedral in the Diocese of Alexandria. Father Lussier was a parish priest at St. Martin de Tours in Glen Robertson. On April 29, 1967, parishioner Michel Lalonde wrote a letter to the Diocese of Alexandria, complaining of Father Lussier's dealing with a young person. Mr. Lalonde described his observations and those of other parishioners. They were concerned about the relationship between Father Lussier and a fifteen-year-old boy. Mr. Lalonde stated that he believed the matter merited serious consideration. It was evident that the relationship between the boy and the priest was more than friendly and was in fact abnormal.

Bishop Proulx arrived in the Diocese in June 1967. Bishop Proulx met with a delegation from Glen Robertson. The Bishop asked Father Lebrun to act as a witness at the meeting. When asked if he inferred from the discussion that this was a sexual abuse complaint, Father Lebrun responded that it crossed his mind but he did not pursue the issue with the Bishop.

After the meeting with the parishioners from St. Martin de Tours, Bishop Proulx reassigned Father Lussier to another parish. In a letter to Father Lussier on May 21, 1968, Bishop Proulx thanked him for his good service as the pastor of the parish.

Father Lebrun did not know whether the Bishop conducted an investigation into the allegations set out in Michel Lalonde's letter. He was not aware of a police investigation or any other investigation into the allegations. Father Lebrun testified

that he never met the young man referred to in the 1967 letter and did not know if anyone from the Diocese met with him. Nor did Father Lebrun discuss the situation with Father Lussier. Bishop Proulx met with Father Lussier on January 26, 1972, to discuss difficulties he was having with nuns and parishioners in Martintown. The Bishop wanted Father Lussier to voluntarily resign.

It is clear to me that the complaint in 1967 about Father Lussier was not a situation of rumours and innuendo. The parishioners had brought this matter to the Bishop formally in writing and had pursued it vigorously. This was a direct complaint regarding intimate contact of the priest with a fifteen-year-old boy. Even in 1967, parishioners were concerned about such issues and wished to discuss this matter with the Diocese in order to address the situation.

On June 28, 1972, Bishop Proulx announced the appointment of Father Lussier to the parish of Dalkeith and Lochiel, in Glengarry County.

On October 21, 1993, Gilles Sabourin and René Lalonde sent a letter to Bishop LaRocque outlining their concerns regarding Father Lussier at his parish in Moose Creek. The letter was also copied to Father Evariste Martin, Father George Maloney, and Father Lebrun. The parishioners referred to a meeting Bishop LaRocque had previously had with several members of the parish, on June 30, 1993, at Moose Creek. The parishioners said they were no longer capable of dealing with Father Lussier's public insults, sexist remarks, and verbal abuse. Bishop LaRocque had undertaken to address the issue within the next eight to nine weeks. The parishioners offered him a period of three months to find a replacement for the priest.

In the letter, they also referred to a second meeting with Bishop LaRocque, which was held on October 7, 1993. They noted that in the previous three months, nothing had occurred to address the situation and they had not received any communication from the Bishop to advise them of his intervention.

Bishop LaRocque testified that he does not think he was aware in 1993 of the 1967 letter written by Michel Lalonde regarding complaints about Father Lussier by parishioners. Bishop LaRocque also did not recall discussions with Father Lebrun about Father Lussier but knew that a number of priests were aware of his difficulties with the parishioners.

Bishop LaRocque told Father Lussier that he was approaching retirement age and asked him to retire. Father Lussier agreed to resign. By letter dated October 29, 1993, Bishop LaRocque accepted the priest's resignation.

Father Lussier spent several years with his sister in the United States. He returned to the Diocese of Alexandria-Cornwall in 1997, and Bishop LaRocque asked him to go for an assessment at Southdown Institute.

On August 1, 1997, Bishop LaRocque received a telephone call from a therapist at Southdown concerning Father Lussier. Inscribed in notes by Bishop LaRocque are: "In the past was active with men (17+18) & women who approached him

first.” This note referred to a question the Bishop had asked the therapist about the age of the young people involved. Bishop LaRocque’s notes read: “He did not initiate these actions. He has not been sexually active since 60. Avoid contact with young men. This is merely good judgment.” Bishop LaRocque could not recall what the therapist meant by this. The Bishop testified that the emphasis appeared to be on the priest’s temper and not on his difficulties with youths or sexuality.

After his assessment at Southdown, Father Lussier returned to the Diocese of Alexandria-Cornwall and was appointed by the Bishop as chaplain on August 17, 1998, at St. Joseph’s Villa, a retirement home. Father Lussier had difficulty there as well. Bishop LaRocque stated that the priest was arrogant and had insulted people. At a certain point, the Bishop removed him from the position.

Bishop LaRocque confirmed that the 1967 letter sent by Michel Lalonde in Lucien Lussier’s personnel file was not provided to the OPP in 1998 because it was not specifically requested. Bishop LaRocque did not recall reviewing Father Lussier’s file. He did not remember seeing Michel Lalonde’s letter of April 29, 1967, nor meeting Mr. Lalonde.

Bishop Durocher could not recall any conversations with Bishop LaRocque regarding Father Lucien Lussier but stated that they might have discussed the priest since Father Lussier continued to be involved in replacement ministry, filling in for other priests in the parishes. Bishop Durocher testified that he was not told by Bishop LaRocque that Father Lussier had been sent to Southdown. He claimed that all the information he obtained regarding Father Lussier came from his personnel file.

Bishop Durocher, as a general rule, did not review the personnel files of priests. However, because of the requests of some priests, the Bishop gradually examined files over the years. Bishop Durocher looked at the files of the individuals involved in the Project Truth cases. He did not read Father Lussier’s file at that time. There was no complaint against Father Lussier when Bishop Durocher arrived in 2004, so he saw no reason to read his file. Bishop Durocher read Father Lussier’s file only after a lawsuit was launched.

In my view, the Diocese failed to sufficiently investigate the allegations of inappropriate contact with a young person by Father Lussier. It also failed to take appropriate action to identify potential victims of Father Lussier. Moreover, the Diocese failed to take appropriate action to ensure that young persons in the community would not be at risk of inappropriate contact by Father Lussier. It is also evident that the Diocese failed to provide training on the appropriate response to allegations of sexual misconduct by clergy involving young people.

It is also my view that Bishop LaRocque ought to have known of the inappropriate contact with young persons involving Father Lussier. He consequently did not take appropriate action to ensure that young persons in the community

would not be at risk. In addition, he failed to take appropriate action to identify potential victims in relation to allegations of inappropriate contact by Father Lussier. Bishop LaRocque also failed to provide training to Church officials in his Diocese on how to respond to allegations of sexual misconduct by clergy.

In my opinion, it is very important that the outgoing Bishop of the Diocese of Alexandria-Cornwall inform the incoming Bishop with respect to allegations of sexual misconduct by members of the clergy with young persons in the community. It is also important that bishops and other Church officials be conversant with the material in the personnel files of the priests, particularly with respect to allegations of sexual misconduct. Had this been done, Bishop Durocher could have taken appropriate action to investigate the allegation of inappropriate contact by Father Lussier and could have taken action to identify potential victims in relation to these allegations.

Institutional Response of the Children's Aid Society

Every area of the province is served by a Children's Aid Society. All Societies are funded by the Ministry of Community and Social Services. The first legislation to govern the protection of children and the organization, membership, and management of Children's Aid Societies in Ontario was the 1927 *Children's Protection Act*. The mandate of a Children's Aid Society (CAS) as described in the 1960 *Child Welfare Act* stated:²⁹ "A children's aid society may be established having among its objects the protection of children from neglect, the care and control of neglected children, assistance to unmarried parents, the placement of children in adoption, the supervision of children placed in adoption until an order of adoption is made and generally the discharge of the functions of a children's aid society under this Act."³⁰

The 1984 *Child and Family Services Act* defined a child as an individual under sixteen years of age, thereby limiting Children's Aid Societies to dealing with persons under the age of sixteen. Section 15(3) of the *Act* stated that the functions of a Children's Aid Society were to:

- (a) investigate allegations or evidence that children who are under the age of sixteen years or are in the society's care or under its supervision may be in need of protection;
- (b) protect, where necessary, children who are under the age of sixteen years or are in the society's care or under its supervision;

29. R.S.O. 1927, c. 279.

30. R.S.O. 1960, c. 53.

- (c) provide guidance, counselling and other services to families for protecting children or for the prevention of circumstances requiring the protection of children;
- (d) provide care for children assigned or committed to its care under this Act;
- (e) supervise children assigned to its supervision under this Act;
- (f) place children for adoption under Part VII; and
- (g) perform any other duties given to it by this or any other Act.

This description of functions was unchanged in the 1990 *Child and Family Services Act*,³¹ which is the legislation currently in force.

Cornwall is serviced by the Children's Aid Society of the United Counties of Stormont, Dundas & Glengarry (CAS of SD&G). In addition, this CAS is also responsible for the Ontario section of the Mohawk territory of Akwesasne.

In 1992, the Ministry of Community and Social Services created a set of mandatory standards. As a result, there was some standardization of the intake process among all Children's Aid Societies across Ontario. Unlike the previous standards and guidelines, the 1992 standards did refer to historical abuse, indicating that Children's Aid Societies should encourage historical abuse victims over sixteen years of age to report the abuse to police and to avail themselves of community resources.³²

If a decision is made that a child is in need of protection, the file is moved to the family service unit. This unit works with the family to reduce protection concerns to the point that the family can function on its own. If such work is not successful, the Society may seek a court order and the children may become Crown wards or permanent wards of the CAS of SD&G. The file is then transferred to the child and youth team.

If an allegation of historical abuse is received, the CAS of SD&G encourages the person involved to report the incident to the police, and the person may be directed to community victim-assistance services. However, the CAS initiates an investigation only if there is an allegation or evidence that a child under the age of sixteen is at risk or may have been abused. Unless a young person is already subject to a child protection order, a Children's Aid Society takes the position that it cannot investigate allegations of abuse regarding sixteen- or seventeen-year-olds.

Since April 1989, all staff recruited by the CAS of SD&G are required to have a current police record check.

31. R.S.O. 1990, c. C.11.

32. Carol A. Stalker et al., "Policies and Practices of Child Welfare Agencies in Response to Complaints of Child Sexual Abuse 1960–2006," Phase 1 research, filed at the Inquiry.

Ontario Children's Aid Societies are not permitted to use either the Child Abuse Register or the provincial Child Protection Fast Track Information System to screen potential employees. The Fast Track system is a database containing names of individuals who have had any contact with an Ontario CAS. The Child Abuse Register comprises confidential records of the names of persons who have been verified by a CAS as having abused children within the meaning of the *Child and Family Services Act*.

I agree that access to the Fast Track System and the Child Abuse Register for checks on potential CAS employees is a needed change for Ontario and that it would provide an extra mechanism to protect children. Every safeguard should be available to ensure that those working in Children's Aid Societies are not themselves a risk to children. As other Canadian provinces already have this capacity in place, the change is overdue.

In the past, the CAS of SD&G had access to excellent joint police/CAS training offered by the Institute for the Prevention of Child Abuse (IPCA) and by the Ontario Association of Children's Aid Societies (OACAS). This training afforded the opportunity for child welfare workers to be trained with police officers, which also increased understanding of the interactions between police and child welfare workers as partners in protecting children and built useful networks. As well, the training involved mock interviews with children, a particularly practical learning component.

This training ceased to be available in 1995. In my view, it is imperative that joint training of a calibre provided by IPCA in the past be re-instituted in Ontario and be widely available across the province. The program should incorporate training on reports of historical sexual abuse.

In the late 1970s and early 1980s, if the CAS of SD&G received a complaint regarding a foster home or group home, it would notify the police and conduct a joint investigation. If the alleged perpetrator was in the home, children were removed and statements recorded and shared with police. While this practice may have been in place during that period, it was not always followed. Since 1992, if there is an allegation of abuse in a foster home, the CAS of SD&G will convene a planning meeting, notify the police, and develop a safety plan for the victim and other children in the home. The foster home is notified of the review within twenty-four hours. Following an investigation, there is a disposition conference and a summary report, with conclusions and recommendations made by the investigators and confirmed by management, which is provided to the foster home.

There are no across-the-board standards for the disclosure of case records to former wards or those subject to protection orders. Neither are there standards regarding counselling or other supports that people may need when they see their records. In my view, the government of Ontario should develop standards

and provide guidance to all Children's Aid Societies on disclosure of records and the type of records those in care should have access to. This process should include review of provisions of Part VIII of the *Child and Family Services Act*,³³ which deals with confidentiality and access to records. Some of these provisions are unproclaimed.

A number of policies, protocols, and procedures have been adopted in recent years regarding the establishment of foster homes and the screening, training, and supervision of foster parents. These amendments have provided much-needed structure to the foster care system. On the issue of foster parent screening, I recommend that all Children's Aid Societies in the province be provided access to the Fast Track System to screen potential foster parents.

Duty to Report

The 1978 *Child Welfare Act* introduced a duty on professionals to report suspected abuse. Section 49(2) stated: "Notwithstanding the provisions of any other Act, every person who has reasonable grounds to suspect in the course of the person's professional or official duties that a child has suffered or is suffering from abuse that may have been caused or permitted by a person who has had charge of the child shall forthwith report the suspected abuse to a society."³⁴

The 1984 *Child and Family Services Act* set out the duty to report in section 68(2): "A person who believes on reasonable grounds that a child is or may be in need of protection shall forthwith report the belief and the information upon which it is based to a society."³⁵ Section 68(3) described the duty to report for professionals: "Despite the provisions of any other Act, a person referred to in subsection (4) who, in the course of his or her professional or official duties, has reasonable grounds to suspect that a child is or may be suffering or may have suffered abuse shall forthwith report the suspicion and the information on which it is based to a society."

Section 68(4) included a non-exhaustive list of professionals who have a specific duty to report any suspicions of child abuse: "(a) a health care professional, including a physician, nurse, dentist, pharmacist and psychologist; (b) a teacher, school principal, social worker, family counsellor, priest, rabbi, clergyman, operator or employee of a day nursery and youth recreation worker; (c) a peace officer and a coroner; (d) a solicitor; and (e) a service provider and an employee of a service provider."

33. *Child and Family Services Act*, R.S.O. 1990, c. C.11.

34. *Ibid.*

35. *Child and Family Services Act*, 1984, S.O. 1984, c. 55.

Child Abuse Register

The Child Abuse Register, as mentioned, comprises confidential records of the names of persons who have been verified by a Children's Aid Society as having abused children within the meaning of the *Child and Family Services Act*. The Register is used by all Children's Aid Societies as part of their investigations into alleged abuse.

The Register is of limited value with respect to historical child sexual abuse cases. Because it is not within the CAS mandate to investigate reports of historical abuse made by an adult unless there is a concern that the alleged abuser may still be abusing children, these allegations would not be verified, and the CAS could not register the alleged offender on the Child Abuse Register.

The implementation of the Fast Track System now permits the tracking of individuals who have had contact with any Children's Aid Society in the province. Witnesses have indicated that the Child Abuse Register has a very limited use because Societies cannot access it to screen employees or foster parents. I have also heard evidence that comparable systems in other provinces have more practical application. I recommend that the government of Ontario reassess the Child Abuse Register to determine if it is still useful, given the new systems and tools that are now in place. If it does, the Register should be revised to address some of the deficiencies that I highlight in the Report.

The Cieslewicz Foster Home

The Cieslewicz receiving home was closed on November 18, 1977. There were a number of sexual allegations made against Mr. Cieslewicz by several girls who were placed in the home.

On September 22, 1978, case worker Françoise Lepage made an entry in the case file indicating that several teenagers who had spent time in this home had made allegations of a sexual nature against Mr. Cieslewicz, including C-77, C-78, C-79, and C-76. Some of these allegations had been made five years prior to this recording and were never investigated.

C-77 was placed in the Cieslewicz home on October 19, 1973, and she remained there until November 15, 1973. Françoise Lepage became C-77's worker in June 1975. C-77 had complained to Ms Lepage that Mr. Cieslewicz had fondled her breasts. The date of this complaint is not noted. Ms Lepage wrote that the complaint was not investigated because C-77 was known to lie frequently.

C-78 was placed in the home on February 23, 1976. Shortly thereafter, C-78 complained to Ms Cieslewicz that Mr. Cieslewicz had asked her to remove her sweater and bra in order to ensure that she was physically in good condition.

She complied. On March 9, 1976, Ms Cieslewicz attended at the CAS office to meet with Bryan Keough and request his advice about the situation. She advised Mr. Keough that her plan was to immediately move out of the home with the children. Mr. Keough discussed the situation with supervisor Dave Devlin and acting director Angelo Towndale. They approved of the proposed manner of dealing with the matter.

Ms Cieslewicz returned to the home after C-78 retracted her allegations and admitted that she had lied. Mr. Keough advised Ms Cieslewicz that he was still required to conduct an investigation. This was approved by Mr. Towndale. Mr. Keough met Mr. and Ms Cieslewicz on March 25, 1976, and reached the following conclusion: "It is possible that the above may have occurred, however, if so, I doubt if it ever will again. Mr. Cieslewicz denies it right down the line, and because of the tremendous asset this home has been to our agency in the past, I believe the man should be given the benefit of the doubt. I therefore recommend that this home remains open." Mr. Towndale reviewed and initialled Mr. Keough's recording about the investigation. He explained that, at the time, in the 1970s, there was a tendency not to believe children.

C-79, aged fifteen, was picked up after running away from a group home in Quebec and was placed in the Cieslewicz home on September 16, 1978, for two nights. C-79 told workers Françoise Lepage and Cam Copeland that Mr. Cieslewicz had come to her bedroom on both nights that she was in the receiving home. On the first night, Mr. Cieslewicz touched her breast but did nothing else once she indicated she would not cooperate. On the second night, Mr. Cieslewicz came to her bed and indicated that he wanted to have sexual intercourse with her. She refused and then practised oral sex on him for a short period before he masturbated and ejaculated on her abdomen. C-79 wiped the semen from her abdomen with the sleeve of her blouse. CAS workers at the interview held the next day observed that a substance had dried on her sleeve. These allegations were given some consideration, but, in view of her bad reputation, they were not investigated.

Although I appreciate that the training and resources available in the 1970s were not the same as they were subsequently, in my view the way in which these girls' allegations were dismissed was inexcusable. This is especially so given that, in the case of the third girl, C-79, there was potential physical evidence of the abuse.

C-76 was placed in the Cieslewicz foster home on July 26, 1973, and remained there until October 20, 1978. C-76's case file indicates that she was of below-average intelligence. On October 16, 1978, C-76 confided to her worker, Bryan Keough, that Mr. Cieslewicz had been involved sexually with her for some time.

She told Mr. Keough that the abuse involved fondling and usually happened when she was going to the barn to help him with chores. It was the fourth allegation of sexual abuse against Mr. Cieslewicz. On the same day, Ms Cieslewicz wrote a letter to CAS executive director Tom O'Brien indicating that, effective November 18, 1978, she would be closing her receiving home.

I question why C-76 was not removed from the home by Bryan Keough on October 16, 1978. In my opinion, she should have been removed immediately or steps should have been taken to ensure that Mr. Cieslewicz would not be alone with her until an investigation could be conducted.

On October 31, 1978, Mr. O'Brien wrote to Barry Dalby, the director of Child Welfare, providing a report on the Cieslewicz receiving and foster home and describing the four complaints of sexual abuse made against Mr. Cieslewicz over the years. He wrote:

... The first girl who made an allegation against the foster father was not only promiscuous but had made allegations of the same nature against her own father. She was also mildly retarded and known to be a compulsive liar.

The second complaint was a severely retarded adolescent girl ... When this complaint was brought to our attention, the worker assigned to this home immediately investigated. Mr. Cieslewicz denied the allegations ... We also learned at this time that the complainant had previously made allegations of this type against staff and residents of past placements, including our own staffed group home.

...

The fourth complaint came from a ward of the Province of Quebec who had run away from a group home in St. Hyacinthe, and was placed in the Cieslewicz home for two days ... She was questioned at our office but we had doubts as to her credibility since she had quite openly made sexual advances while in the car towards the male worker who apprehended her. During the investigation she related very casually many sexual experiences she had had in the past.

Mr. O'Brien agreed that the letter was not as complete as it ought to have been. The tenor appears to be more accusatory toward the four alleged victims than the alleged perpetrator.

A meeting took place on October 31, 1978, between Crown Attorney Don Johnson, Assistant Crown Attorney Guy DeMarco, and CAS officials Tom O'Brien, Angelo Towndale, and Bryan Keough. After considering the facts presented

by the CAS officials, Mr. Johnson was of the opinion that there was insufficient evidence to proceed with any charges against Mr. Cieslewicz.

Mr. O'Brien explained that the reason he went to the Crown attorney often was because he knew him both professionally and personally and had a lot of respect for his knowledge and professionalism. In my view, all allegations of sexual abuse brought to the attention of the CAS should have been reported to the police, regardless of whether the Crown attorney recommended that the police be contacted or not.

The response of the CAS to the allegations of sexual abuse at the Cieslewicz foster home was entirely unacceptable, even by the "standards" of the 1970s.

There were a number of children placed in the Cieslewicz home who had different CAS workers. At one point, there were as many as three child protection workers involved. Mr. Keough testified that, at the time, there were no meetings of the child protection workers who had children in the same home. These circumstances can lead to one worker not being aware of information another worker had about the situation in the home. This potential problem was exacerbated by the fact that there was a gap in the recordings in the foster home file between 1973 and 1976. It is critical that foster home files be kept up to date, especially when there are different workers involved. This will allow each worker to review the foster home file and have a firm understanding of what has been occurring.

In my opinion, although there were resource issues that may have contributed to a reluctance to close a foster home on the basis of allegations of abuse, the primary reason in the Cieslewicz case was the presumption that the child complainants were not truthful.

Even by the standards of the 1970s, the institutional response of the CAS of SD&G to allegations of abuse against young people was seriously deficient. Tom O'Brien and Françoise Lepage failed to investigate sufficiently or delayed in investigating allegations, obtaining information, or noting indications of abuse. In addition, the CAS, Mr. O'Brien, and Ms Lepage failed to take or delayed in taking appropriate actions to ensure that young people would not be at risk of abuse from Mr. Cieslewicz. Moreover, the CAS failed to advise or delayed in advising proper police authorities of allegations or information relating to abuse of young people involving Mr. Cieslewicz, and it failed to offer and/or provide sufficient counselling, assistance, and support to alleged victims of abuse involving Mr. Cieslewicz.

Roberta Archambault and the Lapensee Group Home

Roberta Archambault lived in a number of foster homes as a child. She lived in the Hubert foster home, the Lapensee group home, briefly at the Lalonde home, and at the deRonde home. She alleged that she was physically, mentally, and sexually abused while in the care of the CAS.

Roberta Archambault had a number of CAS workers while at the Hubert foster home. She testified that, although a CAS worker visited the home from time to time and asked how she and her sister were treated, they could not disclose anything because the Huberts were in the next room and could hear everything that was said. She testified that she knew when the CAS worker was coming because the Huberts would instruct her to clean up and would put her in suitable clothes instead of the rags she usually wore. She stated that the CAS worker never came unexpectedly. Ms Archambault testified that she did not disclose the verbal or physical abuse by the Huberts to a CAS worker until she was in high school.

Bryan Keough was Roberta Archambault's CAS worker from July 1972 until she left the Hubert home in December 1980. He testified that, when he visited foster homes, he would meet with the foster parents or mother alone, followed by a meeting with the child alone, and then a meeting with the parents and child together. In my view, meetings with the child in the foster home are not effective, as the child cannot be certain he or she will not be overheard.

Ms Archambault recommended that every child in foster care should be questioned outside the home and should be told that they can say something if they are in danger and that they will then not be sent back to that situation. I agree. I recommend that the CAS require its staff to conduct meetings with children in a location outside of the foster home, such as at school. Ms Archambault also noted that all visits by workers were scheduled, and she recommended that the CAS make unannounced visits. I agree. Ian MacLean, who was the director of Residential Services for a number of years, testified that steps are being taken by the CAS of SD&G to introduce unscheduled visits to begin in the fall 2009. He suggested that a recommendation be made to the Ministry of Children and Youth Services that Children's Aid Societies include in their service agreements with foster parents the requirement of unscheduled visits by workers to foster homes. I endorse this recommendation, and I support the initiative of the CAS of SD&G to introduce unscheduled visits prior to it becoming a Ministry requirement.

As required, Bryan Keough maintained detailed recordings of Roberta's progress at the Hubert home. He agreed that from 1972 to 1973 there did not appear to be any concerns with her but that by 1976 there had been a change and he had noted some concerns. Mr. Keough noted possible sexual behaviour. Mr. Keough did not think at the time that Ms Archambault's behavioural problems could be indicators of physical or sexual abuse.

In my view, observations of sexual misbehaviour or promiscuity with respect to a thirteen- to fifteen-year-old youth warrant at least some investigation, including speaking to the child in question. It is incumbent upon CAS workers to recognize the signs of possible abuse and to ask the appropriate questions.

Roberta Archambault testified that, when she was in grade 10, she called Bryan Keough from school one day. She said they met in Mr. Keough's car in the school parking lot once or twice a week for two or three months and she told him about the verbal and physical abuse by the Huberts and about her suicide attempt. Ms Archambault did not reveal the sexual abuse perpetrated by Mr. Hubert. Bryan Keough denied that Roberta Archambault told him about any abuse in the Hubert home or that he met with her at school two to three times a week for several months.

In 1980, when she was fifteen, the Huberts requested that Ms Archambault be removed from the home. She transferred to the Lapensee group home.

Ms Archambault was introduced to one of the Lapensees' sons, Brian. She thought he was around twenty-one years old. He lived at the Lapensee farmhouse, where Ms Archambault spent some of her weekends. She testified that, during her first weekend at the farmhouse, another foster girl told her that Brian Lapensee had been touching her inappropriately.

Roberta Archambault alleged that Brian Lapensee fondled her, and that there was oral sex when she was fifteen or sixteen years old. Ms Archambault stated that she did not disclose this to his parents because she had been told by one of the daughters that this was the last foster home for her, and she felt the mother, Alice Lapensee, would do anything to protect her son.

On November 30, 1982, CAS worker Mary Miller reported to her supervisor Ian MacLean that one of the female foster children in the Lapensee home had alleged that Brian Lapensee was sexually molesting her and other girls in the home. It was decided that the CAS would conduct an investigation. Mr. MacLean and Ms Miller interviewed the girls in the home, Brian Lapensee, and Mr. and Ms Lapensee. In addition to the original complainant, three other girls alleged that Brian Lapensee had sexually molested or made sexual advances towards them.

Brian Lapensee denied having any physical or sexual contact with the girls and stated that he felt his previous involvement with a ward in his parents' home allowed him to be set up by the other girls even if he had not done anything. He stated that he was moving that night to Toronto. Following the investigation, Ian MacLean prepared a serious occurrence report, which is a report of an incident that has to be reported to the Ministry.

In my view, Mr. MacLean used some unfortunate language in this report, especially in light of the fact that Brian Lapensee was twenty-one years old and the girls, who were all in the care of the CAS, were fifteen years old. I find the reference to the girls' "promiscuous backgrounds" to be irrelevant to determining whether or not sexual abuse occurred in the home. Mr. MacLean acknowledged that, even if an individual is promiscuous, she can still be sexually assaulted and that promiscuity on the part of the girls would not excuse Brian Lapensee's

behaviour. I also find disconcerting that Mr. MacLean concluded that Brian Lapensee could not “be involved” with the girls in the home. An allegation of a consensual sexual relationship between Brian Lapensee and a female ward would in itself have been inappropriate. However, the allegation reported unwanted and non-consensual sexual touching and harassment.

The conclusion also references “Brian’s past history.” The CAS was aware that there had been an issue of sexual misconduct on the part of Brian Lapensee several years earlier, as a result of which a female ward became pregnant.

I heard evidence at the Inquiry of an incident involving the Lapensees’ other son, Larry. He had had a sexual relationship with a ward in the home who became pregnant and was placed in a home for unwed mothers. Ian MacLean did not know about this until the Inquiry, as none of this information was in the Lapensee file. This is a good example of the importance of accurate record keeping and information sharing. Had Mr. MacLean had this information, it may have led to a more prompt closing of the Lapensee home.

In my opinion, one of the recommendations emerging from the CAS investigation of Brian Lapensee should have been to notify the police.

On December 2, 1982, Mr. O’Brien wrote a letter to Robert Nadon, Ministry supervisor, enclosing a copy of the serious occurrence report. Mr. Nadon was advised that there was no further risk to children, as Brian Lapensee had left the area. Mr. O’Brien also stated that he had made an appointment to meet with the Crown attorney.

The Lapensees were provided with a copy of the serious occurrence report. Mr. O’Brien advised them that the matter had been discussed with the Crown attorney, who had decided that no further legal action would be taken.

Ian MacLean did not recall discussion about closing the home. This group home already had two incidents in which the foster parents’ sons had engaged in sexual activity with adolescent female wards. I accept that Mr. MacLean was not aware of the first incident involving Larry Lapensee. However, it is clear from Mr. MacLean’s testimony and the serious occurrence report that the CAS was aware at the time of at least the incident in 1979 involving Brian Lapensee. Mr. MacLean testified that he was aware that what Brian Lapensee allegedly did to at least three girls in the home was possibly an offence under the *Criminal Code*. In my opinion, given these circumstances, the police should have been advised of the allegations and the home should have been closed. Even if charges were not warranted under the *Criminal Code*, the behaviour was such that this was not an acceptable home in which to place children and youth in the care of the CAS.

Mr. O’Brien acknowledged that the information about Larry Lapensee would have been enough to close the home.

In December 1982, Brian Lapensee returned to the area and was again living in his parents' farmhouse. Tom O'Brien and Ian MacLean wrote him a letter, dated December 20, 1982, in which they reminded him that he had agreed that he would leave his parents' home and have no further contact with the girls in the group home. He was advised that any contact with any of the girls could result in serious consequences. Given that it appeared that Brian Lapensee's departure from the area was a significant factor in the determination by the CAS that the wards in the home were no longer at risk, I am surprised that more aggressive action was not taken upon his return to ensure that he would not pose a threat to the female wards.

In April 1983, there was an incident at a Lapensee family dinner that led Ms Archambault to accuse Brian Lapensee of making sexual advances toward her. This incident led to a heated family argument. According to Ms Archambault, when she returned to the Lapensee home the following day, she was told by one of the Lapensees' daughters that she "had ruined it for everybody" and that now she "didn't have a home." Roberta Archambault testified that she took pills, and went to bed "hoping not to wake up." She called Mary Miller, who took her to the hospital.

Ms Archambault testified that, on the way to the hospital, she told Ms Miller that the accusations made by the girls in 1982 against Brian Lapensee were true and that she had lied when asked about him because she "had always been able to handle Brian and his advances to her and she did not want to hurt Ed and Alice by telling them the truth." She desperately wanted to have them as a family.

On April 7, 1983, Mary Miller and Ian MacLean interviewed Roberta Archambault at the hospital. She told them that she had stayed overnight at the Lapensee farmhouse on April 2, 1983. There had been no arrangement with the CAS for this overnight visit. Mr. MacLean testified that he would have expected there to have been a request and special circumstances set up, as the Lapensees were aware that Roberta was not to stay there and that Brian Lapensee was not to have contact with female wards. Roberta Archambault told the CAS workers that, when she woke up the next morning, Brian Lapensee was in her bedroom and made a sexual advance towards her. She then described the family party, the confrontation that ensued, and her attempt to commit suicide.

As with the previous incident, Mr. O'Brien contacted the Crown rather than the police. He advised Mr. Nadon in a letter dated April 23, 1983, that the Crown felt there was no point in pursuing charges against Brian Lapensee at that time. Mr. O'Brien was comfortable basing his decision regarding the proper way of proceeding on the Crown's opinion.

In my opinion, the practice of Mr. O'Brien in going to the Crown for direction demonstrates a misunderstanding of the roles of the police and the Crown. It is

the police and not the Crown attorney who decide whether criminal charges will be laid.

As I found with respect to the 1982 incident, the CAS should have contacted the police about the allegations of Ms Archambault in April 1983. In addition to not contacting the police, the CAS also did not interview female wards who were placed in the home between 1977 and 1983 to determine if they had been sexually molested or suffered any sexual advances by Brian Lapensee. Given the number of incidents involving Brian Lapensee that had come to the attention of the CAS, this would have been prudent.

On April 11, 1983, Ian MacLean prepared a serious occurrence report recommending the Lapensee home be closed. However, the Lapensees were given the opportunity to resign rather than have their foster home closed down.

The closing summary was prepared by Mr. MacLean on January 7, 1985. It makes reference to an incident involving Brian Lapensee when he was sixteen, prior to the 1979 incident. Ian MacLean did not believe that anything was recorded or the Ministry notified of that incident. There was similarly no reference in the file to the 1979 incident until the 1985 closing summary. There were in fact no recordings in the Lapensee file between 1973 and the closing summary in 1985. In my view, the record keeping with respect to the Lapensee group home was inexcusable. This failure is even more egregious given the numerous concerns that arose with respect to the Lapensees' son. To maintain consistency and ensure that decisions are made with full knowledge and information, it is critical that foster and group home files be kept up-to-date and contain detailed descriptions of any incidents or concerns.

The Lapensee home, in my view, should have been closed down earlier. The incident in 1979, in which Brian Lapensee impregnated a female ward, could have constituted sufficient grounds to close the home. At the very least, there should have been a discussion among CAS officials about the future of the home. According to Mr. MacLean, the issue of closing the home was not raised with his superiors in 1979. He explained that the CAS was in the process of replacing beds due to the closure of the Second Street group home, which may have been part of his focus at the time. He acknowledged that, in hindsight, he should have done things differently.

The response of the CAS to the incidents in 1982 and 1983 involving Brian Lapensee was inadequate. The police should have been contacted. The home should have been closed in 1982. When it was closed, the Lapensees should not have been allowed to resign. In any event, the closing summary should have been prepared immediately, especially given that the Lapensees were permitted to resign with no indication in their resignation letter as to the circumstances of the home's closure.

Roberta Archambault's wardship ended in 1984. In or around 1992, Roberta Archambault asked the CAS if she could see her file from when she was a Crown ward. She received only four or five pages. When she asked where the rest of her file was, Ms Archambault was told that the CAS could give her only a summary of her file because of other parties named in her file.

In 1994, Roberta Archambault retained a lawyer to try to access her CAS records. Ms Archambault still did not receive the entire contents of her file. She was provided with an additional three-page summary.

Jeannette Antoine

Jeannette Antoine and her older sister Lorraine were placed in the Reynen foster home on September 15, 1966, when Jeannette was five. Jeannette Antoine alleged that she and her sister were both physically and sexually abused at the Reynen home.

Jeannette Antoine testified that Mr. Reynen started sexually abusing her when she was about five or six years old. According to Ms Antoine, initially she and her sister did not talk about the abuse, but when she was about twelve or thirteen years old she started to disclose to people, including school teachers and CAS workers.

Ms Antoine testified that different CAS workers visited the home every two to three months. She recalled that the Reynens were always present, and the two sisters did not have any time alone with CAS workers. She also believed that the visits were scheduled in advance, because when the CAS worker arrived there were dolls and jewellery in their room, which would be removed after the CAS worker left the foster home.

Jeannette Antoine recalled that she and her sister began going to the Looyen home within the first year that they were at the Reynen home. The Looyen foster family lived close by to the Reynens. The sisters would on occasion be placed in their care when the Reynens went away or when Ms Reynen was in the hospital. Ms Antoine testified that they were abused by Ms Looyen's father, who would place them on his lap and touch them.

Ms Antoine testified that she and her sister were too frightened to report the abuse in the Looyen home and did not believe anybody observed the abuse they suffered there. However, she alleged that she told a number of CAS workers about the abuse later. In particular, she said she told Mr. Keough, Françoise Lepage, and Angelo Towndale.

Jeannette and her sister Lorraine were transferred to the Heemskerk home for adoption placement on March 22, 1968. On July 2, 1968, the Heemskerks announced that they could no longer keep Jeannette Antoine, as she had been

engaging in sexual play with their son. The foster mother also stated that Jeannette Antoine, who was not yet eight years old, enjoyed exposing herself to the teenage hired hand and had been observed stimulating the dog. On July 3, 1968, there was a case conference, which included the CAS executive director Tom O'Brien, regarding Jeannette Antoine's behaviour. They discussed the possibility of separating Jeannette from her sister and agreed to do so if this would not traumatize Lorraine. On July 11, 1968, the CAS worker was advised that the Heemskerks wanted both sisters removed and they were returned to the Reynen home.

Although there are no references in the case file to Ms Antoine disclosing abuse to her CAS workers, the references to sexual behaviour in Ms Antoine's file should, in my opinion, have alerted the CAS to a potential problem. Although these entries are not conclusive of any mistreatment, they indicate behaviour that should cause concern when exhibited by such a young child. Although the CAS took steps to identify a medical or psychological reason for Ms Antoine's behaviour it should also have, in my opinion, investigated the foster homes where she resided to determine if circumstances in those homes were the root cause of her sexual behaviour.

Bryan Keough testified that, when he became Jeannette Antoine's worker in 1972, he read her file but he could not recall making a note of these particular recordings regarding her sexual behaviour. He further stated that nobody discussed this matter with him. Mr. Keough testified that the foster mother, Mrs. Reynen, suffered from depression, and in November 1972 she was hospitalized due to a nervous breakdown and was released one month later. On March 15, 1973, Bryan Keough met with Mr. Reynen, who requested that the children be taken out of his home at the end of the school year. Despite these issues in the home, the children remained there. Mr. Keough testified that his reasoning at the time was that the children seemed to be doing relatively well and that the focus should be on helping Ms Reynen resolve her problems.

On July 19, 1973, Bryan Keough received a call from Mr. Reynen, who asked that Lorraine Lapointe be moved out of the home as soon as possible. Jeannette was permitted to stay. It never occurred to Mr. Keough that something sexual had occurred between Mr. Reynen and Lorraine. Nor did it occur to him to ask Lorraine about whether something might have happened after Mr. Reynen requested that she be removed. In hindsight, he agreed it was strange that Mr. Reynen wanted Lorraine rather than Jeannette to be removed from the home.

Jeannette Antoine had a very difficult experience as a young child in foster care. I am unable to determine with certainty who was made aware of the abuse she suffered, as there were no specific recordings in her file containing allegations of abuse. In my opinion, all reported allegations of abuse should be recorded in a child's file regardless of whether they are believed or corroborated.

The Second Street Group Home

The Second Street group home was established by the CAS of SD&G in 1975. It was the Society's first attempt to provide alternative care for children with behavioural problems who did not function well in traditional foster homes. It was located in close proximity to the CAS office.

When the Second Street home was opened in 1975, there were no CAS policies on physical discipline and no written documents stipulating that sexual overtures towards and relations with CAS wards were prohibited and grounds for dismissal. There was also no CAS training for the individuals who operated and worked at the group home. To exacerbate matters, the staff responsible for the children at the Second Street home were not adequately screened.

Rod Rabey, who worked in the Child Protection Department of the CAS of SD&G, was selected to operate the Second Street home when it first opened in 1975. Unfortunately, Mr. Rabey's time at the Second Street group home lasted only a few months. He died suddenly in December 1975.

It was decided by the CAS that Derry Tenger, who worked in the Child Care Department, would fill Mr. Rabey's place and operate the group home. Hiring the staff was at the sole discretion of Mr. Tenger. In this respect, the CAS failed to properly screen the group home staff. Mr. Tenger decided to ask Bryan Keough, a close personal friend, to assist him and asked the Children's Aid Society to designate Mr. Keough as the liaison officer between the group home and the agency.

Mr. Keough testified that he witnessed corporal punishment as well as other forms of discipline of children at the group home. He himself had administered corporal punishment to a young boy at the Second Street home. However, Mr. Keough testified that he "had no serious issues with what" Mr. Tenger was doing at the home. As a result, he never reported the corporal punishment or other forms of discipline to his superiors at the Children's Aid Society.

Bryan Keough acknowledged that he was involved in conduct with C-75 that was "inappropriate" and an "error in judgment." On February 28, 1976, Bryan Keough received a call from the OPP asking him to pick up a runaway teenage girl. Mr. Keough drove to the police station to retrieve C-75, a CAS ward with whom he had had no previous contact. Bryan Keough transported C-75 to a receiving home operated by Ms Matte. He brought the girl to a bedroom and instructed her to take off all her clothing and put on a housecoat. Mr. Keough acknowledged that the fifteen-year-old girl was physically well developed. She refused to remove her clothes, and a physical struggle ensued between her and Mr. Keough. Bryan Keough forcibly removed the girl's pants, shirt, and bra. When asked why he forced her to strip, Mr. Keough explained that, without

clothes or shoes, she could not run away in the winter, particularly if he tied her to the bed, which he proceeded to do. After he initially tied the girl's hands and feet to the bed with nylon, she was able to extricate herself. A further struggle ensued, and he then successfully bound the girl tightly to the bed. Mr. Keough then left Ms Matte's receiving home.

Mr. Keough testified that he realized that his actions were excessive and inappropriate and that he had exercised bad judgment. He decided to contact his supervisor, Dave Devlin, that night to discuss the incident. Mr. Devlin immediately reprimanded Mr. Keough. Later that night, Mr. Keough picked up C-75 at Ms Matte's receiving home and brought her to the Second Street home.

Bryan Keough saw one of the staff—he believes it was Jerry MacGillis—strap C-75 with a belt. The corporal punishment administered to this girl was sanctioned by Mr. Tenger. Mr. Keough testified that, although he “believed in corporal punishment,” he had concerns about the physical punishment administered to C-75 for two reasons. First, the girl was strapped about four or five times for behaviour she had (allegedly) engaged in before she became a resident of the Second Street home. Second, Mr. Tenger was visibly angry when the discipline was administered; his voice was loud, his face was red, and he was very upset. Mr. Keough thought that it was not appropriate to corporally punish a child from a state of anger. Bryan Keough witnessed the strapping of C-75, saw the circumstances in which it was administered, and saw Derry Tenger's rage. He considered this punishment inappropriate, yet he did not report it to his supervisor, Dave Devlin, or to other officials at the CAS.

The following week, Mr. Keough learned that, on the night he brought C-75 to the group home, the teenager had been forced to clean the house, wearing only a bra and underpants, in the presence of staff—clearly a degrading and humiliating experience for the fifteen-year-old. Mr. Keough claimed he was unaware that children in the home were compelled to take cold showers throughout that night.

It is clear that Bryan Keough was aware of discipline at the group home that constituted abuse. In my view, he should have reported this abusive behaviour to his superiors, and he failed to do so. Mr. Keough also used inappropriate methods of restraint and discipline on children, in particular C-75.

It became apparent to Mr. Towndale, shortly after Mr. Rabey's death, that there were problems at the Second Street group home. When Tom O'Brien, the executive director of the CAS, went on sick leave in February 1976, the Board of Directors asked Angelo Towndale to fill his position until Mr. O'Brien returned. It was at a staff meeting in February, shortly after becoming acting executive director of the CAS, that Mr. Towndale learned there were concerns regarding the Second Street group home. Mr. Towndale asked Mr. Devlin to

check into things after the meeting. Mr. Devlin spoke with Mr. Tenger and reported back to Mr. Towndale that there was “questionable” discipline administered to the children by staff at the home. Mr. Towndale spoke with Mr. Tenger about the discipline issue. Mr. Tenger challenged him on his objection to corporal punishment, given that there were no policies at the CAS on this issue at the time.

Mr. Towndale had concerns about the physical treatment of the children at the Second Street group home as well as other foster homes under the jurisdiction of the CAS of SD&G. Notwithstanding his concern, it does not appear that any action was taken other than the confrontation with Mr. Tenger.

On March 5, 1976, Mr. Towndale, Dave Devlin, and board member Canon Sidney Irwin met with staff from the Second Street home, including director Derry Tenger, Michael Keough, and Bryan Keough. The purpose of the meeting was to discuss the physical punishment administered to the children at the home. At the meeting, Mr. Towndale and Mr. Devlin made it clear that they were opposed to physical punishment. Mr. Tenger told the CAS officials that physical punishment was an important part of his program at the group home and that he was reluctant to give it up. He was instructed to exercise caution in his administration of physical punishment to the children until such time as the CAS developed a policy on what constituted inappropriate physical discipline by staff.

Mr. Towndale, as acting executive director of the CAS, had a duty to ensure children under the care of the CAS were safe. His instruction to Mr. Tenger to exercise caution was clearly insufficient at that time.

On March 7, 1976, three female youths from the Second Street home ran away. When they were picked up by the police, the girls complained that they were strapped at the group home. The girls were also very worried they would receive further beatings as punishment for fleeing the home. In fact, the following day, Derry Tenger and Michael Keough asked Angelo Towndale if they could strap the three girls as punishment for their behaviour. Mr. Towndale refused to grant permission, and he contacted the Chair of the Personnel Committee at the CAS, Ms Labekovski, and a meeting of the committee was arranged for the next day, March 9, 1976.

The acting executive director decided to hold interviews at the CAS offices and speak to each child individually. The information conveyed to the CAS officials by these wards raised serious questions about physical, sexual, and psychological abuse of children under the care of the Children’s Aid Society. Mr. Towndale considered this treatment of the children “demeaning, quite harsh, unacceptable” and “very inappropriate.”

These interviews with the children focused on physical discipline. The children were not asked questions during the CAS interviews about sexually inappropriate behaviour at the Second Street home; this issue was not probed. This was

despite the fact that Mr. Towndale knew that female wards had had their clothes removed and that they had been required to do housework in their bras and underpants, and that Bryan Keough had taken off C-75's clothes and bound her.

Mr. Towndale had serious concerns about Derry Tenger's treatment of the children at the Second Street group home, but he did not know how to deal with this objectionable conduct. He testified that no CAS policies addressed this issue, and Mr. O'Brien was not available for advice. Mr. Towndale did not contact the Ministry of Community and Social Services for guidance or advice on how to handle the situation.

On March 9, 1976, the Personnel Committee of the Children's Aid Society met. It was decided that Derry Tenger, Bryan Keough, and Michael Keough should join the meeting to discuss their views on physical punishment and other forms of discipline administered at the Second Street home. These men verified that the statements of the children were accurate. However, both the director and staff from the group home "felt that their actions were justified."

A motion was passed at the CAS Personnel Committee meeting that staff at the Second Street group home refrain from strapping the children and that, if isolation of the child were considered necessary, it should not exceed twenty-four hours and that the child should be provided with a bed and bedclothes. The Personnel Committee considered the information from the Second Street home very serious, thought that further investigation should be pursued, and agreed that CAS protocols should be developed. The adoption of the motion was a step in the right direction but the CAS should have been more proactive, given the reaction of the director and staff of the Second Street home, who clearly did not agree with the views of the CAS Personnel Committee.

On March 10, 1976, the day following the meeting of the CAS Personnel Committee, five children, one of whom was Jeannette Antoine, ran away from the Second Street home. Jeannette and another ward, Freddie, came to the CAS office. By March 11, 1976, Mr. Towndale had decided that the situation at the group home had deteriorated to such an extent that he should remove Mr. Tenger immediately as director. Because there was no CAS policy on physical punishment and because Mr. Towndale did not feel he had the full support of the Board, he asked Mr. Tenger to return to his former position at the CAS and did not take any action to terminate his employment.

At the Personnel Committee meeting on March 17, 1976, it became clear that staff at the group home were still not receptive to other ways of disciplining the children. The CAS committee decided that the current director and staff of the group home should submit their resignations to the Board immediately. Resignations were received in the next two days.

It is of significance that Bryan Keough was not asked to resign and was permitted to remain on staff at the CAS. Mr. Keough was under Mr. Towndale's

supervision. Mr. Towndale considered Mr. Keough's behaviour appalling, yet no serious disciplinary measures were taken against this CAS staff worker. Mr. Towndale acknowledged at the hearings that, in hindsight, perhaps he should have terminated the employment of staff such as Bryan Keough for inappropriate treatment of children. Mr. Towndale stated that Mr. Keough was not fired because that was a decision of the Personnel Committee and the CAS Board was divided.

Mr. Towndale's decision to place a reprimand in Mr. Keough's file was insufficient in my view. The CAS had received information on Mr. Keough's handling of C-75 from Mr. Keough himself and from C-75. There was sufficient information available to Mr. Towndale to take action against Mr. Keough. He should have reported the matter to the police.

At the CAS Annual Meeting on March 24, 1976, speakers selected by Mr. Towndale made presentations on corporal punishment. Different views were elicited. Yet the CAS did not develop a policy on physical discipline of children at that time. Mr. Towndale was not successful in developing a protocol on unacceptable physical treatment of children under the care of the CAS.

When Mr. O'Brien returned to the CAS in April 1976 after his sick leave and resumed his position as executive director, he was briefed by Mr. Towndale regarding the treatment of children at the Second Street group home and the actions of Mr. Towndale, the Personnel Committee, and the Board of Directors. Mr. O'Brien took no steps to ensure that Bryan Keough was adequately disciplined for his inappropriate behaviour with the children at the group home. Nor did Mr. O'Brien ensure that the allegations made against the staff by the children at the home were investigated further or reported to the police. Nor did Mr. O'Brien, after learning about the treatment of the children, develop a policy on the procedures for current CAS wards who allege they were abused by an employee of the CAS. Nor did he develop a written policy on reporting such internal matters to the police.

Derry Tenger was replaced by Dick Mulligan, and new staff were hired for the Second Street home. Ian MacLean joined the CAS of SD&G in 1976. From June 1976 until February 1977, Mr. MacLean was the liaison between the agency and the Second Street home.

There were three male staff and six adolescent residents, mostly girls, when Mr. MacLean assumed the role as liaison of the group home. The three staff were John Primeau, Raymonde Houde, and Al Herrington. It quickly became apparent to Mr. MacLean that there were no policies in place or set routines at the Second Street home.

It was Mr. MacLean's responsibility to develop a behavioural management program and a routine for the group home. He was also asked to develop a team approach for staff working with the children at the home. But it soon became

evident to Mr. MacLean that it would be difficult to implement such programs, schedules, and team building at the home.

Mr. MacLean testified that it would have been beneficial if he had been fully apprised of the history of and treatment of the children at the Second Street group home when he became the liaison. He stated that he could have been more attentive to red flags regarding possible abuse—sexual or physical—of the children who resided in the home. He also claimed that, if he had had knowledge of the history of the treatment of the children, he would have taken appropriate actions to ensure that the current staff received adequate training regarding appropriate disciplinary measures. However, Mr. MacLean did not take measures to obtain the particulars on the historical treatment of the children at the home before he became the liaison.

Mr. MacLean believed that it was important for female staff to be hired at the Second Street group home. Mr. MacLean thought female staff should be on duty, particularly in the evenings when the female wards were at the home. John Primeau was one of the staff at the home about whom Mr. MacLean had concerns. Mr. Primeau would routinely take female adolescents from the Second Street home on outings. Mr. MacLean made it clear to Mr. Primeau that he opposed this practice. However, Mr. Primeau did not adhere to Mr. MacLean's advice and continued to engage in this behaviour. Mr. MacLean decided to discuss Mr. Primeau's behaviour with his supervisor, Mr. Devlin, in July and August 1976. As Mr. MacLean said in his evidence, "The more I worked with John, the higher my anxiety level."

Despite Mr. MacLean's concerns about Mr. Primeau's refusal to follow the rules in the Second Street home and his continued excursions with female residents at the home, Mr. MacLean did not discuss with these adolescents what was going on during these outings. Nor did Mr. MacLean inform these teenagers of their rights in the event that anything untoward took place. In my view, Mr. MacLean failed to take appropriate action against John Primeau, a worker he knew to be acting contrary to the rules of the group home. He also should have taken some steps to satisfy himself that nothing inappropriate was happening between John Primeau and the adolescents in the home. Had Mr. MacLean engaged the adolescents at the home in discussions, he would have likely learned about other questionable methods of discipline at the Second Street home, such as the improper use of restraints. He stated that he knew that restraints were being used on the children but was unaware of the particular techniques that were being practised.

In February 1977, the Board decided to close the Second Street home. Mr. MacLean understood that the reason for the closing was strictly financial and that it had nothing to do with any allegations of wrongdoing—physical or sexual—by staff to the children under the care of the CAS.

Allegations were subsequently made in 1994 by two former wards from the home that John Primeau engaged in sexual conduct with them.

In 1989, Greg Bell and Suzie Robinson were assigned by the CAS to investigate allegations against Jeannette Antoine of physical abuse of her nine-year-old child. It was during the course of this investigation that Ms Antoine disclosed to these CAS workers that she had been abused as a child when she was a ward of the Children's Aid Society.

One of the people Ms Antoine alleged had abused her was Bryan Keough, a colleague of Mr. Bell's. Over the course of a few meetings in 1989, Ms Antoine told Mr. Bell and Ms Robinson that she and other children had been abused by staff at the Second Street group home. She was particularly concerned that Bryan Keough remained in the employment of the CAS and continued to have contact with children.

Mr. Bell reported Ms Antoine's allegations of historical abuse to Tom O'Brien, the executive director of the Children's Aid Society, and Bob Smith, a supervisor at the Society, on August 21, 1989. On August 23, 1989, Ms Antoine told the CAS executive director that children at the group home had been subjected to harsh corporal punishment. She also stated that there had been sexual abuse but it was not clear to Mr. O'Brien whether Ms Antoine, or the other children at the home, had been subjected to the sexual conduct.

A meeting attended by Mr. Towndale, Mr. O'Brien, and Bill Carriere was held on September 8, 1989, to discuss what actions the CAS should take regarding Ms Antoine's "accusations and concerns." It was agreed that the president of the Board of the CAS should be advised of the allegations and that a meeting should be arranged with the Cornwall Police Service (CPS) and the Crown to receive their input. It was also suggested that Mr. O'Brien contact other CAS executive directors, such as those in Ottawa and Renfrew, to obtain information on how these agencies handled allegations of abuse by staff employed by the agency. The matter was also discussed with Lenore Jones, the program supervisor in Ottawa at the Ministry of Community and Social Services, who believed that action should be taken regarding these historical allegations of abuse. Ms Jones also recommended that an outside body, not the CAS of SD&G, ought to deal with these allegations.

There was no policy or protocol regarding the procedure to follow when allegations of abuse were made against staff or employees of the CAS.

On September 25, 1989, a meeting was held with Crown Attorney Don Johnson, CPS Deputy Chief Joseph St. Denis, and Inspector Richard Trew. Strapping at the group home was discussed, and it was concluded that this did not constitute a violation of the *Criminal Code*. It was proposed that Mr. O'Brien send a registered letter to Jeannette Antoine attaching the CAS complaints procedure

and inviting her to again meet with him. It was also suggested that, if Ms Antoine did not take any further action, there need be nothing further done.

A few days later, Mr. O'Brien met with Greg Bell, Suzie Robinson, Bill Carriere, and Angelo Towndale to review Ms Antoine's statement. In Mr. O'Brien's opinion, some of her allegations were true, others were exaggerated, and some lacked merit.

On September 29, 1989, after again meeting with Mr. Towndale and Bill Carriere, Mr. O'Brien and his two senior officials decided the agency should "very quickly contact the police again," because information contained in Suzie Robinson's notes suggested that "inappropriate sexual behaviour" was engaged in by "staff when the group home was in operation." On October 2, 1989, Mr. O'Brien met with Deputy Chief St. Denis and Staff Sergeant Brendon Wells. Mr. O'Brien explained that when he re-read Ms Robinson's notes on the allegations of sexual behaviour by staff, it "changed the situation" for him, and, as a result, Mr. O'Brien "felt" that he had "no option" but to contact the Cornwall police again.

There are no notes or records from Mr. O'Brien to confirm that he spoke to Bryan Keough in September 1989 to discuss these allegations of abuse. Mr. O'Brien testified that, despite receiving allegations against Mr. Keough that he sexually and physically abused children under the care of the CAS, he did not consider suspending his employment. Mr. O'Brien allowed Mr. Keough to continue supervising foster children and to provide advice and guidance to foster parents on such matters as physical discipline of children under their care. Mr. O'Brien testified that, although this did not concern him at the time, in hindsight, had he thought about the issues then, he "would have been much more cautious."

At no time did the CAS suspend the employment of Bryan Keough. In fact, it never conducted an investigation of Mr. Keough as a result of the allegations made by Ms Antoine. Mr. O'Brien acknowledged in his testimony that having an outside agency conduct an investigation of an employee at the CAS of SD&G would "probably be more objective."

After Mr. O'Brien transferred the Antoine file to his successor, Mr. Abell, the new CAS executive director did not consider pursuing the Antoine matter further concerning the allegations of abuse against Bryan Keough. Mr. Abell testified that he did not consider an internal investigation of the allegations of abuse against his employee. At that time, he had no experience at the CAS with the suspension of an employee without pay while an investigation took place.

Mr. Abell testified that the current practice of the CAS with respect to such issues has changed—the matter would be pursued by the agency, the individual in question might be removed from his or her duties, and another CAS agency or third party would be asked to conduct the investigation of the allegations against the CAS staff worker in question.

On October 7, 1991, Greg Bell received a call from Jeannette Antoine requesting a copy of her file from the Children's Aid Society. Mr. Bell discussed her request with his supervisor, Bill Carriere, as well as Mr. Towndale and supervisor Cam Copeland. The CAS executive director became involved.

Mr. Abell met with Jeannette Antoine on October 18, 1991. It was immediately apparent to Mr. Abell that her anger was directed at Bryan Keough for his treatment of her when she was a child under the care of the CAS. Ms Antoine was concerned that Mr. Keough continued to be a staff worker at the CAS, although he had in fact left the agency the previous year. Ms Antoine did not think that her allegations of abuse had received the seriousness from the agency that they deserved. She was upset that no criminal charges had been laid by the police and she wanted an apology from the Children's Aid Society. Mr. Abell did not know whether the CAS could provide Ms Antoine with the requested apology; it was "tricky ground," particularly if a person is planning to sue the agency.

On October 29, 1991, he sent a letter to Ms Antoine in which he tried to express compassion and support and provide some recognition of the treatment she had sustained while under the care of the CAS. As he made clear in his testimony, this was not an apology. Mr. Abell further wrote that, if Ms Antoine wanted criminal charges laid against Bryan Keough, she should pursue this matter with the CPS.

In February 1992, Mr. Abell instructed one of the child protection staff, Carlene Cummings, to close the Antoine file. Mr. Abell made this decision because, at this time, there was no indication that the CPS would pursue the matter further, nor had Ms Antoine initiated a civil lawsuit against the agency.

In the late fall of 1993 Geraldine Fitzpatrick, a CAS staff worker, arrived at the Cornwall police station to meet Constable Heidi Sebalj. Constable Sebalj asked Ms Fitzpatrick for her assistance in conducting an interview with a woman in a historical abuse case. This woman claimed she had been abused as a child when she was a ward of the CAS living at this group home. This woman was Jeannette Antoine.

The interview with Ms Antoine took place on November 12, 1993. Ms Fitzpatrick did not inform anyone at the CAS office that she was interviewing Ms Antoine with Constable Sebalj. Not only did Ms Fitzpatrick not advise her supervisor or other agency officials, she did not open a CAS file on the matter. Ms Antoine stated that, when she was living at the Second Street group home as a child under the care of the CAS, she was physically and sexually abused.

Geraldine Fitzpatrick chose not to disclose the interview that she had had with Jeannette Antoine to her supervisor or senior officials at the CAS. Richard Abell, executive director of the CAS, had no knowledge of the Fitzpatrick/Sebalj interview of Ms Antoine until about two years later, when, in August 1995, Geraldine Fitzpatrick disclosed the interview that had taken place at the CPS in

late 1993 and the allegations that had been made by Jeannette Antoine. It was clearly inappropriate, Mr. Abell said, for Ms Fitzpatrick to have involved herself in that interview without authorization. I agree and am of the view that Ms Fitzpatrick should have advised her supervisors of this investigation.

Jeannette Antoine testified that she was approached by reporter Charlie Greenwell in early 1994, who was interested in obtaining information on her care as a child when she was a ward of the Children's Aid Society. The media stories on Jeannette Antoine occurred immediately after publicity in the media about David Silmser's allegations of sexual abuse. The stories in January 1994 on television and in print were of concern to the executive director of the CAS of SD&G. Allegations of institutional cover-up, which included the CAS, were reported in the media.

On January 12, 1994, Mr. Abell received a letter from Deputy Chief St. Denis confirming that the CPS would be examining its investigation of the Antoine allegations of abuse and that CAS staff would likely be interviewed. By January 1994, Mr. Abell knew that Constable Shawn White had been assigned to the Antoine investigation and that Staff Sergeant Derochie would be reviewing the earlier police investigation that had begun in 1989.

In November 1994, the CAS was informed of the outcome of Constable White's investigation. Constable White had concluded that there was insufficient evidence to support criminal charges with regard to the Second Street home or the foster homes. It was made clear to Mr. Abell that, although a number of other children had allegedly been abused, there had been no follow-up activity by the police.

Mr. Abell was "struck" that former wards of the CAS, not solely Jeannette Antoine, had alleged abuse, and that the allegations involved not only physical abuse but also sexual abuse. Mr. Abell did not ask the police for the names of the former wards. Nor did Mr. Abell follow up with Suzanne Lapointe regarding her allegations of abuse in a foster home. Mr. Abell acknowledged that, in retrospect, he should have asked the CPS for further details and should have pursued allegations of abuse, which were extensive. He agreed that he should have been more proactive and that this was a failing on his part. These former wards were now struggling as adults and needed support.

Earl Landry Jr.

In 1985, the CAS of SD&G conducted a joint investigation with the CPS into allegations of sexual abuse made by C-51 against Gary Seguin. Mr. Seguin was ultimately charged and prosecuted. CAS worker Jean Dupuy was assigned to investigate the allegations on behalf of the CAS. Bill Carriere was his supervisor.

C-51 also made an allegation of abuse against Earl Landry Jr., who, at the time, was employed by the City of Cornwall Parks and Recreation Department as the caretaker at King George Park in Cornwall.

In or around mid-September 1985, Mr. Dupuy received a letter from Dr. Malcolm Park, Chairman of the Child Protection team at the Children's Hospital of Eastern Ontario. The letter stated that C-51 and his brother alleged that they had been sexually molested by Gary Seguin and Earl Landry Jr. The letter contained details of the allegations against Mr. Landry Jr.

Jean Dupuy provided a statement to Sergeant Brian Snyder on December 19, 2000, regarding the letter from Dr. Park and the allegations of sexual abuse by Earl Landry Jr. contained therein. Mr. Dupuy was not able to provide an explanation as to why the information was not investigated or whether it was passed on to the CPS. In my opinion, the information contained in this letter should have been turned over to the police, whether or not the CAS conducted its own investigation.

The CAS of SD&G did not conduct an investigation into Earl Landry Jr. because he was not considered a "caregiver" and therefore fell outside the CAS mandate. Mr. Carriere acknowledged that this position was taken despite the fact that Mr. Landry Jr. worked at a park used by children on a regular basis.

Not only did the CAS not investigate Earl Landry Jr., but Jean Dupuy's case notes with respect to C-51 do not make reference to the allegation against him. Bill Carriere testified that there should have been a reference to Earl Landry Jr. in the file. Even if the CAS did not consider him as being in a caregiver role, and therefore not within its mandate, there should have been some discussion within the agency about the allegations.

This is in stark contrast to how the CAS handled the case of Bernie Campbell, who was a volunteer coach for various sport teams for the Parks and Recreation Department. Mr. Carriere and Mr. Dupuy were both involved in the Campbell case. Upon being notified of potential abuse, Mr. Dupuy notified the police within a day. He attended the next day with the alleged child victims and they gave the police statements. Mr. Campbell was charged, and the CAS made a decision to contact the department manager who supervised him, which was done within days. In this case, the CAS reacted very quickly. Mr. Campbell was charged and convicted in March 1986. Although Earl Landry Jr. was only a caretaker, as opposed to a coach, he had equal access to and opportunity to approach the children attending the same recreation facilities.

There are two issues with respect to the handling of the Earl Landry Jr. case by the CAS of SD&G. The first is the decision not to investigate, and the second is the adequacy of information sharing and record keeping. With respect to the first issue, I appreciate that the definition of caregiver was less expansive in

1985 than it is today. However, in my opinion the facts warranted at least some investigation on the part of the CAS to allow them to make an informed determination about whether or not Earl Landry Jr. was a caregiver. The issue of who is a caregiver remains unclear. The concept of caregiver needs to be more clearly defined. The second issue in this case is insufficient record keeping and the lack of information sharing. I have already commented that the letter from Dr. Park, or at least some of the information in the letter, should have been shared with the police.

Earl Landry Jr. came to the attention of the CAS again, in 1993, for two reasons. First, he and his wife applied to become foster parents to C-54. Second, an anonymous complaint of sexual abuse against a young person by Mr. Landry Jr. was reported by the alleged victim's psychologist. It is unfortunate that a more complete investigation was not conducted into Earl Landry Jr. in 1985. A more complete CAS and/or joint CAS-CPS investigation may have prevented the victimization of the children Mr. Landry Jr. abused after 1985.

In May 1993, Earl Landry Jr. and his wife, Lucie Landry, applied to the CAS of SD&G to be approved as a provisional foster home for C-54. Being a provisional foster home means that the applicant is interested in taking only a particular child and not other foster children. Due to the inadequacies of record keeping and coordination related to previous reports regarding Earl Landry Jr., previously discussed, the records at the CAS of SD&G did not disclose past allegations that could have disqualified the Landrys as foster parents.

When the application was made in respect to C-54, he had already been in contact with the CAS. In 1991, he had come to the attention of the CAS of SD&G as a victim of sexual abuse by a male relative and had participated in a family sexual abuse treatment program. However, Bill Carriere, who was at that time a supervisor in the Protection Department, indicated that the CAS did not know that C-54 had been abused by Earl Landry Jr. at the time of the foster home application. This was discovered only much later.

References must be provided by individuals applying to be foster parents. In this case, a reference was given by Earl Landry Sr., the father of Earl Landry Jr., who identified himself as the retired chief of police in Cornwall. Although he knew of the 1985 allegations made against his son, the father provided a reference without caveat.

On September 13, 1993, the CAS received a call from Cornwall psychologist Dr. Wayne Nadler, who indicated that one of his counselling clients had disclosed sexual abuse perpetrated by Earl Landry Jr. when his client was a child. This patient did not want to pursue the matter with the CAS or police.

On September 20, 1993, the CAS sent a letter approving the Landry home as a provisional foster home for C-54.

On October 4, 1993, Dr. Nadler provided additional identifying information: the alleged perpetrator of abuse was the son of the former chief of police. At this point, there was still no connection made by CAS staff between the 1993 report and the previous allegations that had surfaced in 1985. It is clear, however, that the information relayed by Dr. Nadler identified Earl Landry Jr., who had recently become a foster father, as an alleged child abuser.

In the course of her investigation, Ms DeBellis spoke to C-51, a person identified to her by Sergeant Lefebvre as one of the individuals who had made an allegation in 1985. Although C-51 could not give the name of his abuser, he was able to give significant identifying information about the individual who sexually assaulted him when he was nine or ten, including the fact that the abuser was still working as a city employee.

Earl Landry Jr. was working at a local arena, where he could have contact with children, and thus a decision was made at an October 29, 1993, meeting to contact the head of the Parks and Recreation Department of the City of Cornwall. An attempt was made to contact the head of the Parks and Recreation department, at Earl Landry Jr.'s place of employment, but he had left for the day. The employer was otherwise never contacted or informed in this case.

In a meeting held on December 21, 1993, the CAS concluded that there was sufficient information to infer that Earl Landry Jr. had probably molested C-51 and Dr. Nadler's client. However, the CAS did not inform Earl Landry Jr.'s employer or contact the police, nor did it take steps to record his name in the Child Abuse Register. In addition, although CAS staff told C-54 that they preferred he move out from the Landry home, they took no further steps, as C-54 was sixteen and did not want to move. The Landry family was told on January 20, 1994, that the status of their home as a provisional foster home was terminated.

In December 1995, CAS of SD&G worker Carole Leblanc received an allegation by C-52 that he had been abused by Earl Landry Jr. at King George Park when C-52 was twelve to sixteen years of age. Ms Leblanc indicated that she was not aware of the 1993 or 1985 allegations about Earl Landry Jr. She provided the information she had collected to the CPS.

At a May 1996 risk management meeting, the issue of informing the Parks and Recreation Department about Earl Landry Jr. surfaced once again. A decision was made that the CAS was on "shaky ground" with respect to informing the employer, notwithstanding the third allegation and the fact that a determination had been made that Earl Landry Jr. had likely abused C-51 and another individual. In April 1997, the issue of informing the employer remained under consideration but again no action was taken.

The CAS failed to take appropriate action. There was sufficient information to warrant informing the employer, who could then have taken its own action.

When an employer is informed of the allegation, it can take steps such as assigning the individual to duties that do not involve children or suspending the employee with pay while the situation is investigated.

Throughout the CAS investigation in 1993, C-54 denied being abused by Earl Landry Jr. However, in August 1997, he disclosed to the CPS that Earl Landry Jr. had abused him. Earl Landry Jr. was charged by the CPS in 1997 and in August 1999 pleaded guilty to charges relating to five complainants, including C-54. He was sentenced to five years imprisonment.

The issue of poor or non-existent cross-referencing in CAS files is a consistent theme in the Landry case. The foster home staff approved placements at the same time when a credible report of abuse had been made. In addition, there appeared to be poor record keeping with respect to the 1985 and 1993 complaints.

The fact that records were incomplete is not a trivial matter. It led to the approval of an inappropriate foster home placement and delays in reporting to the employer of the potential risk associated with an employee with access to children. While I do not attribute the inadequacies of the Landry investigation at the CPS to the CAS, if the CAS had had better records, it might have been of greater assistance to the CPS or have been in a position to put pressure on the Cornwall police during its very slow investigation.

Project Blue

The genesis of Project Blue emanated from a discussion in late September 1993 between Richard Abell, executive director of the Children's Aid Society, and Constable Perry Dunlop in the parking lot at Quinn's Inn in St. Andrew's.

Constable Dunlop told Mr. Abell that he had overheard a conversation between some officers at the police station in which Father Charles MacDonald was mentioned. Perry Dunlop was very upset that a police investigation involving sexual abuse of a young person by a priest was not being pursued by the CPS. The Constable thought that the investigation had not been properly handled. He was worried that children in the community continued to be at risk of abuse. He considered himself under a statutory duty to report this information to the Children's Aid Society. Constable Dunlop told Richard Abell that he had a copy of the victim's statement.

The following day, Perry Dunlop showed Richard Abell the statement of David Silmsen concerning his allegations of sexual assault. In this statement, Mr. Silmsen made allegations of sexual abuse against not only Father Charles MacDonald but also Ken Seguin, a probation officer in Cornwall. Mr. Abell understood that these were allegations of historical abuse. Mr. Abell assured Constable Dunlop that he would pursue the matter within his own organization.

Mr. Abell did not take the victim's statement from Perry Dunlop at the time but he read it and found it to be very credible.

After a few days, Richard Abell decided to contact Constable Dunlop to find out the outcome of his discussions with Staff Sergeant Brunet and members of his force. Helen Dunlop related to the CAS executive director that her husband's discussions with Staff Sergeant Brunet had not gone well. Constable Dunlop had been advised to end his involvement in the Father MacDonald matter and was cautioned that he could be charged under the *Police Services Act*. Constable Dunlop, she said, had also spoken to the Crown prosecutor, Murray MacDonald. Ms Dunlop told the CAS executive director that she herself had contacted David Silmsner and had tried to arrange to meet with him. Mr. Abell was surprised that Ms Dunlop had involved herself in this matter by contacting an alleged victim of sexual abuse.

Mr. Abell picked up the victim's statement at the Dunlop home the following morning and assured the CPS Constable that he would discuss the matter with senior staff at the CAS and decide whether the CAS would proceed with an investigation.

In Mr. Abell's view, the circumstances presented in the Silmsner case, past abuse by a priest who continued to be active in the church and the community, required a report to the Children's Aid Society by officers at the CPS. The CAS executive director believed that the failure of the investigating police officer and his superior to report the matter to the CAS was attributable to the lack of clarity surrounding cases of historical abuse. I am of the view that the statutory duty in section 72 of the *Child and Family Services Act* should be amended. It should clarify that there is an obligation to report cases of historical child abuse in circumstances in which the alleged perpetrator continues to be a risk to children.

Mr. Abell met with his senior managers on September 30, 1993. Inscribed in Mr. Abell's notes of the September 30, 1993, meeting was the comment "Strong consensus we have duty to open investigation based on concern for present abuse of children." This consensus resulted in the CAS Project Blue.

Richard Abell met with Chief Shaver on October 1, 1993. At the meeting, Mr. Abell reviewed the reporting section of the *Child and Family Services Act* with the police chief and told him there was a statutory duty to report this alleged abuse to the Children's Aid Society. The executive director of the CAS also told Chief Shaver that the victim's statement was "highly" credible, and that Mr. Abell intended to proceed with the investigation. The Chief admitted that his police force had "screwed up big time," that the investigation had not been done, and that it had been placed on the "back burner." Mr. Abell considered these comments "striking" at the time and had a clear recollection of this acknowledgment by the police chief.

The CAS met with Bishop LaRocque on October 12, 1993. Mr. Carriere and Mr. Towndale accompanied Mr. Abell to the meeting. Mr. Abell told the Bishop that the agency was investigating allegations of abuse by Father Charles MacDonald. Mr. Abell indicated that he wanted Father MacDonald out of the parish to enable the CAS to freely conduct its investigation. Mr. Abell testified that the primary reason to ensure that the priest was not in the parish was the concern about the safety of children. The Bishop was “very reluctant” to comply with this request, according to the notes of the meeting. They engaged in a “lively exchange” and finally agreed that Father MacDonald would stay away from the parish for a two-week period. The CAS officials knew this was not sufficient time to enable it to complete its investigation.

Bishop LaRocque told the CAS officials that he had been opposed to paying off David Silmser but had been persuaded to do so by the Diocese lawyer, Jacques Leduc, and Father Charles MacDonald’s lawyer, Malcolm MacDonald. Mr. Abell asked the Bishop to give Jacques Leduc permission to speak freely and openly to the CAS about the Silmser case.

On October 14, 1993, Project Blue was initiated by the Children’s Aid Society. The primary purpose of the project was to determine whether Father Charles MacDonald posed a present risk of abuse to children in the Cornwall area.

On October 14, 1993, Mr. Abell briefed Lenore Jones, program supervisor at the Ministry of Community and Social Services. She agreed to find out whether probation and parole officer Ken Seguin was in the Ministry. Mr. Abell subsequently learned that Mr. Seguin was not in fact with the Ministry of Community and Social Services. In my opinion, more should have been done to determine whether Mr. Seguin was in contact with young persons, regardless of which Ministry he worked in.

At the team meeting held by Mr. Abell, on October 29, 1993, the CAS executive director learned that the Bishop had made a commitment through his lawyer, Jacques Leduc, to give the CAS the necessary time to investigate the allegations. Mr. Abell, as mentioned, was initially told that the CAS had only two weeks. He was now informed that Father MacDonald was not returning to his parish.

On October 21, 1993, Mr. Carriere and Mr. Bell met with CPS Staff Sergeant Brunet and Constable Sebalj. Mr. Carriere and Mr. Bell were permitted to examine the statements of some alleged victims of Father MacDonald, but the identity of these individuals were not disclosed to them by the police. As a result, the CAS could not contact them. Three statements in particular concerned Mr. Carriere. The first involved an individual who had known Father MacDonald, Mr. Carriere believed, from St. Columban’s Parish. The priest had offered to drive the then eighteen-year-old home one evening, and he alleged that Father MacDonald had put his hand on his groin and asked him if it felt comfortable.

The youth responded “No,” at which time the priest removed his hand. There was no further contact with the alleged victim. The second incident involved the sexual molestation of a youth who had had an overnight stay with Father MacDonald. The third statement that was of concern to Mr. Carriere stated that Father MacDonald showed pornographic magazines to two boys who were eleven or twelve years old.

Greg Bell called David Silmsen on October 28, 1993. Mr. Silmsen was surprised by the CAS contact and was concerned that the agency knew about his abuse. Mr. Silmsen told Mr. Bell that he was prevented from discussing the abuse with the CAS because of the financial settlement that he had entered into with the Diocese.

The following day, a team meeting was held, attended by Mr. Abell, Mr. Carriere, Mr. Bell, Ms DeBellis, and Ms MacLennan. It was agreed that Jacques Leduc, the lawyer representing the Diocese, should be asked for a copy of the financial settlement between the Church and Mr. Silmsen, as well as the reports from the Southdown facility on Father Charles MacDonald.

David Silmsen was interviewed by the CAS on November 2, 1993. He described the abuse he was subjected to by Father Charles MacDonald and Ken Seguin. To the surprise of CAS officials, Mr. Silmsen also alleged in the interview that he had been sexually abused by a school teacher, Marcel Lalonde. This was the first time the CAS heard that Mr. Lalonde was an alleged perpetrator of child sexual abuse. To Mr. Carriere’s knowledge, the CPS had not informed the CAS of Constable Malloy’s 1989 investigation of Marcel Lalonde for sexual abuse.

Mr. Silmsen stated that Mr. Lalonde had taught grade 8 students at Bishop Macdonell School and that he believed that Mr. Lalonde was still teaching. The CAS knew that Marcel Lalonde, as a schoolteacher, would be in contact with many children. Yet, the CAS made a decision not to take any action to confirm this information, alert the educational institution, initiate an investigation, or contact the School Board. In my opinion, the CAS should have notified the School Board that an allegation of historical sexual abuse had been made against Marcel Lalonde.

Ken Seguin committed suicide in late November 1993. At that time, the CAS had not yet initiated its investigation of Mr. Seguin. CAS officials claimed that, before his suicide, the CAS had had insufficient information on the alleged abuse by Mr. Seguin and therefore had not wanted to launch an investigation and expose the agency to civil liability or possibly destroy Mr. Seguin’s career. Mr. Carriere stated that, had the CAS possessed additional information, it would have contacted Mr. Seguin’s employer at the Cornwall Probation Office and/or the Ministry of Correctional Services to notify them that Mr. Seguin might be a risk to young probationers. But this was all in hindsight. The CAS never investigated Mr. Seguin and did not notify the Ministry of Correctional Services.

On November 30, 1993, Mr. Bell received documents from Malcolm MacDonald, which included some of the documents involved in the financial settlement between the Diocese and David Silmser. They included a copy of the release and undertaking not to disclose, the settlement document, the certificate of independent legal advice, as well as a report from Southdown on Father MacDonald. Malcolm MacDonald asked the CAS for an undertaking that the material provided would remain confidential and be returned to him once the agency no longer required the documents.

On January 6, 1994, Mr. Greenwell's report on the Silmser allegations appeared on television on CJOH. Portions of the handwritten statement that David Silmser had given to the police in February 1993 were broadcast on television.

On January 6, 1994, after the broadcast, Mr. Abell received a call from his predecessor, Tom O'Brien, who said that he was contacting him "as a Catholic" community member and relayed that he knew another alleged victim. It was not clear to Mr. Abell whether Father MacDonald was the alleged perpetrator of abuse against this victim, but the executive director of the CAS did not ask Mr. O'Brien for further details.

David Silmser, distressed by the reports in the media, telephoned Mr. Abell. He did not know who had released his statement to the media—the CAS, the CPS, or another institution, or a person. It was very evident that David Silmser had lost trust in the Children's Aid Society and in institutions in general.

Mr. Abell released a media statement on January 10, 1994. He described the mandate of the CAS with regard to children under the age of sixteen and made it clear that the agency was interested in historical allegations of child abuse by adults, as children in the community could be at risk of abuse by the alleged perpetrator.

It was at the February 17, 1994, meeting that the CAS officials involved in the Project Blue investigation verified the sexual abuse of David Silmser by Father Charles MacDonald. The CAS concluded that there was truth to the allegation of child sexual abuse by Father Charles MacDonald of David Silmser. After the verification decision was made, the CAS sent letters to the CPS and the Ontario Provincial Police (OPP) informing them about the outcome of its decision.

It is important to note that the CAS did not contact the registrar of the Sexual Abuse Register after the CAS verification decision, namely that Father Charles MacDonald sexually abused David Silmser. There is a mandatory obligation that, if the abuse is verified, the CAS file this information in a report with the registrar. In my opinion, the CAS should have registered Father MacDonald's name on the Child Abuse Register.

The final CAS team meeting on Project Blue was on March 27, 1995.

As discussed, there were some aspects of this institutional response that could have been approached differently. When the Project Blue investigators first heard from David Silmsen about his allegations against teacher Marcel Lalonde, they should have contacted the CPS. Mr. Carriere acknowledged this. In hindsight, I am of the view that the CAS should have contacted Mr. Lalonde's employer, as he was a teacher employed in a position of trust with constant access to children.

C-14

C-14 alleged that he was physically and sexually abused multiple times as a child while in the care of the CAS.

C-14 was initially placed in a foster home operated by Ken and Muriel Barber in June 1972. He was almost ten years old. According to C-14, the physical abuse by Mr. and Ms Barber started after he had been at the home for approximately one month. In addition to the physical abuse by the Barbers, C-14 alleged he was sexually abused by Arthur Sypes while in the Barber home. C-14 testified that the sexual abuse began shortly after he came into the home. He explained that he was often left in the care of Mr. Sypes when the foster parents went to social functions.

Jim Wylie was C-14's first social worker after he had been placed in the Barber home. C-14 testified that, when he was taken into the Barber home, Mr. Wylie made it clear that he was to be treated with a "heavy hand"; the family was told not to spare the rod. C-14 said he overheard Mr. Wylie talking to Ms Barber, and she was told that even if C-14 asked for another placement he wouldn't be given one.

Mr. Wylie was C-14's worker for just over one month. Rod Rabey was C-14's second worker. C-14 testified that he never spoke to Mr. Rabey about the sexual abuse at the Barber home but did tell him that he was strapped. C-14 did not disclose anything else about what happened to him in the Barber home. He testified that he felt good that he had finally told somebody about the abuse. He believed, however, that nothing was done about the abuse.

In September 1974, Bryan Keough became C-14's worker. According to C-14, he visited the home from time to time but never saw C-14 without the foster mother present. Although Mr. Keough recalled many emotional discussions at the kitchen table in the Barber home, during which they would discuss C-14's behaviour, he denied that he never saw C-14 alone. Mr. Keough's case notes indicate: "On a number of these occasion [sic] I saw both the foster mother and [C-14] together and then separately." I commented previously on the importance of CAS workers conducting visits outside of the foster homes.

Mr. Keough further noted that at times the punishment was too harsh for the wrongdoing committed.

C-14 was removed from the Barber home on August 29, 1977, at both his and the foster parents' request. C-14 was placed in a foster home run by Mr. and Ms Hubert from late August 1977 to March 1978. Bryan Keough remained his worker. C-14 testified that, shortly after arriving at the Hubert home, he told Ms Hubert about some of the incidents of abuse at the Barber foster home. C-14 did not tell Ms Hubert about the sexual abuse. He said that this was because when he had tried to talk about the physical abuse with his previous worker, Rod Rabey, nothing had been done and he was ridiculed for the allegations. In addition, C-14 felt a lot of anxiety, guilt, and shame with respect to the sexual abuse.

After C-14's disclosure to Ms Hubert, there was a meeting between C-14, Ms Hubert, and Mr. Keough to discuss the allegations of physical abuse at the Barbers'. C-14 reported the details of the physical abuse to Mr. Keough.

C-14 alleged he had been the victim of systematic abuse in the Barber home for years, and he was very upset that Mr. Keough had not picked up on it. He requested a new social worker. Mr. Keough testified that this was the first time that he had been made aware of the alleged abuse.

C-14 advised Mr. Keough that his supervisors were already aware of the allegations. Mr. Keough was surprised by this. At the time, Mr. Keough's superior was Angelo Towndale.

In September or October 1977, Mr. Towndale had arranged to have a questionnaire sent to all teenagers in care regarding how they were being treated in foster care. C-14 filled out the questionnaire. Mr. Keough was upset that Mr. Towndale had not advised him of the allegations. Although I applaud Mr. Towndale's initiative in sending this type of questionnaire to children in care following the allegations of abuse coming out of the Second Street group home, it is important that the frontline workers, who work directly with the children, be advised of such initiatives and any outcomes.

After disclosing these allegations of physical abuse to a number of CAS officials, C-14 testified that he was not offered any help or counselling by the CAS. Both Mr. Towndale and Mr. Keough acknowledged that they did not arrange any counselling for C-14 or arrange for him to be seen by a medical doctor. In addition, the police were not notified about C-14's allegations.

Bryan Keough conducted an investigation into C-14's allegations of abuse. Despite the fact that C-14 alleged that Mr. Keough was incompetent for failing to pick up on the abuse while he was at the Barber home, Mr. Keough did not think it was improper for him to do the investigation himself. According to Mr. Towndale, Mr. Keough should have had the Protection Department or another CAS

department conduct the investigation. In addition, he should have reported to his supervisor about the matter and the action he intended to take.

I am of the view that Mr. Keough should have requested that another social worker conduct the investigation into C-14's allegations. C-14 was clearly accusing Mr. Keough of failing to notice the abuse, in addition to alleging that Mr. Keough had always sided with the foster parents. In light of what was being alleged, these accusations against Mr. Keough alone put him in a conflict situation such that he should not have conducted the interviews. Aside from specific accusations by C-14 against Mr. Keough, if the abuse alleged by C-14 did occur, it would presumably raise questions about Mr. Keough's observations and interactions with C-14 and how he could have failed to notice the abuse and its effect on him.

I am also concerned that the police were not contacted. Although corporal punishment of children was an accepted practice in the 1970s, Mr. Keough acknowledged in his case recordings that the punishment of C-14 had been too harsh and that he had received "beatings." The treatment was deemed severe enough for Mr. Keough to recommend closing the home. The Barbers' actions may have amounted to assault, and the police should have been contacted to conduct their own investigation. In addition, counselling should have been offered to C-14.

In or around July 1993, C-14 had a conversation with the executive director of the CAS, Richard Abell, about accessing his file. In 1994, C-14 retained a lawyer to assist him in getting access to his CAS files. It took nearly one year before C-14 was allowed to review a redacted version of his file. It took a further year or so before he was provided with a photocopy of his redacted file. This was after numerous letters were written on his behalf by counsel. It is unlikely that an unrepresented individual would have been as successful. The position of the CAS on file disclosure was not appropriate.

Catherine Sutherland

As a child, Ms Sutherland was subjected to extreme physical abuse by her mother, and she also alleged that she suffered sexual abuse both by her mother and by a foster father. Growing up, Ms Sutherland spent some time at home with her mother and siblings; at other times she lived in various foster homes.

Catherine Sutherland felt that the CAS failed to protect her when she was a child. With respect to the physical abuse, she noted that the agency simply "monitored" the situation despite increasing evidence of neglect and abuse. These events occurred over fifty years ago. I was able to review the file recordings but did not have the benefit of the testimony of the CAS workers involved at the time. As a result, I am unable to make a finding about Ms Sutherland's

allegation that the CAS of SD&G failed to adequately protect her from her mother's abuse.

Ms Sutherland also alleged that she was sexually abused by her mother and that her mother would sell her to men who sexually abused her. However, it does not appear that Ms Sutherland disclosed any of this abuse to the CAS of SD&G while she was in its care. Although Ms Sutherland may not have disclosed allegations of sexual abuse by her mother or other men, there were references in her file to sexual behaviour that perhaps should have alerted someone that there was a problem.

In July 1968, shortly after Ms Sutherland's thirteenth birthday, she was placed in a foster home in Bainsville operated by Mr. and Ms Virgin. She alleged that she was sexually abused by the foster father, Carl Virgin, for approximately one year. Ms Sutherland testified that she told her doctor and her CAS worker, Blaine Grundy, about the abuse but that they did nothing and she remained in the home.

Cathy Sutherland testified that she also disclosed the sexual abuse to Derry Tenger, who was her worker after Blaine Grundy and until she left CAS care. She testified that Mr. Tenger did not do anything either. With respect to Ms Sutherland's allegation that she advised a CAS of SD&G worker of her abuse by Carl Virgin and he did not take any action, there is no recording in the file of the worker being advised of sexual abuse and, unfortunately, I do not have the benefit of the testimony of either Blaine Grundy or Derry Tenger, the two CAS workers whom Ms Sutherland alleged she told of the abuse.

Beginning in 1987, Ms Sutherland attempted to obtain information from her CAS file. It was not until the Inquiry that she was provided with unrestricted access to information about her care by the CAS. I have two concerns regarding Ms Sutherland's journey to obtain her CAS file: first, the extent of the access she was granted and, second, the delays. With respect to the first issue, summaries were both an inefficient and ineffective way to provide a former ward with information from his or her file. The question then becomes whether it is necessary or appropriate for the CAS to black out any information or whether the former ward should simply be given his or her entire file. Bill Carriere testified that the CAS cannot release the entire file because often there is information in it concerning other people that the person requesting the file is not entitled to.

I appreciate this concern and accept that, if the entire file is to be released to a former ward, certain information may have to be redacted. I do not agree with the redaction of the names of foster parents, CAS workers, or even other wards who resided in a particular foster home. These are all individuals who, to varying degrees, played a significant role in a foster child's life and that child has the right to know the identity of these individuals. Although I think the names of other wards who, for example, resided in a particular foster home should be shared, I agree that personal information about those children and their particular

circumstances should be redacted to protect their privacy interests. I agree with the recommendation of Ian MacLean that the CAS be required to compile particular information about children in CAS care, including information about placements, schools attended, and teachers, to provide to those individuals in the future. If an individual still requests access to his or her file, it should be provided, subject to the redactions discussed above.

Once a determination is made on what material can be disclosed, the next issue is how quickly can or should this be done. In Ms Sutherland's case, it took twelve years. Both Bill Carriere and Richard Abell agreed that this was too long.

I am hopeful that the changes testified about by Mr. MacLean coupled with the implementation of a clear direction about the type of information that should be disclosed will ensure that, in the future, former wards of the CAS will receive adequate disclosure in a timely fashion.

Institutional Response of School Boards

Upper Canada District School Board

The Upper Canada District School Board (UCDSB) is a publicly funded English-language board serving students in the County of Lanark, the United Counties of Leeds & Grenville, the United Counties of Prescott and Russell, and the United Counties of Stormont, Dundas & Glengarry.

Before 1990, the public school boards in the Cornwall area provided services to elementary and secondary English and French students and Catholic secondary students. Catholic secondary school students moved to Catholic boards in a gradual process between 1984 and 1990. In 1997 and 1998, French-language elementary and secondary schools and students moved to French-language school boards. When secondary-level Catholic French schools, such as La Citadelle, were transferred to a new board, all facilities and staff went with the transferred school. La Citadelle was transferred to a Catholic school board in 1989, and subsequently to a French-language Catholic school board.

Before 1988, there was no written policy governing what to do if there was a report of abuse by a teacher or other school employee. The practice was to remove the accused person from his or her duties, report to the Children's Aid Society (CAS), and send the person home with pay. The individual would be suspended with pay until criminal charges were resolved and/or the CAS investigation was completed. In April 1989, the Stormont, Dundas & Glengarry County Child Abuse Protocol came into effect.

Private providers deliver school bus services under contract with the UCDSB. This was also the case with the Board's predecessors. Although there was an expectation that transportation service providers would screen their own drivers,

prior to 1999 there were no formal, documented requirements. In 1999, formal standards of performance were developed by the UCDSB and incorporated into contracts with school bus operator contractors.

Robert Sabourin

Robert Sabourin was hired in 1967 as a French, theatre arts, and photography teacher by a predecessor board to the Stormont, Dundas & Glengarry (SD&G) County Board of Education. He taught at La Citadelle High School in Cornwall. Jeannine Séguin was the principal from 1973 to 1981 for La Citadelle and for St. Lawrence High School, when the two schools operated in the same building.

C-112 was a student at La Citadelle from grade 10 to grade 13, from 1973 onward. In 1972, he had attended St. Lawrence High School. C-112 was a student photographer. Robert Sabourin was the teacher responsible for the darkroom, which was kept locked. C-112 alleged that the first sexual incident with Mr. Sabourin happened when he was taken to Ottawa at age fourteen or fifteen to attend a meeting of the Association canadienne-française de l'Ontario. C-112 reported that during the drive, under the guise of helping him learn to drive, Robert Sabourin rubbed his thigh.

In 1974–1975, Robert Sabourin allegedly sexually assaulted C-112, who was taking a cinematography course from him. C-112 did not disclose the abuse to his mother, but told her he did not want to go back to Mr. Sabourin's class.

C-112 disclosed the abuse to Father Gary Ostler, who was involved in La Citadelle. C-112 was subsequently called into the office of Principal Séguin. He recalled that Vice-Principal Jules Renaud also attended. Principal Séguin asked C-112 to confirm that he had complained about an incident involving Mr. Sabourin and that this was the reason he was refusing to attend Mr. Sabourin's class. C-112 agreed and said that Mr. Sabourin was a “pervert.” When Jeannine Séguin asked him if he was prepared to testify in court, C-112 replied that he was not ready for the matter to become public and did not want his friends to find out. C-112 did not have his mother or another adult with him during this interview. Principal Séguin said that C-112 could continue his class in the library instead of with Robert Sabourin.

Principal Séguin was interviewed in March 1998 with respect to a civil proceeding of one of the complainants of Robert Sabourin. In her statement, she denied that C-112 had disclosed a complaint about Robert Sabourin to her. Constable Heidi Sebalj also interviewed Principal Séguin in October 1997 for the CPS investigation of allegations against Robert Sabourin. Ms Séguin indicated in her interview that after the resignation of Mr. Sabourin, she had asked her vice-principal if he was aware of complainants.

Mr. Jean-Paul Scott, the Superintendent of Education at the time, testified that Albert Morin, a Board member, had told him of the allegations of C-112 in 1976 or 1977. He had provided that information to Constable Sebalj in a statement of October 16, 1997. I am of the view that either the principal or the vice-principal or both were aware of the allegations reported by C-112 and that certainly Mr. Scott was aware of the allegations before the CPS investigation.

I have heard no evidence that anyone from the School Board contacted the police or the CAS. At the time, the School Board took no job-related action with respect to Robert Sabourin. Mr. T. Rosaire Leger, Director of Education of the SD&G County Board of Education from 1973 to 1988, testified that on receiving a report of abuse, the Board's practice was to remove any person involved from his or her duties, report to the CAS, and send the person home with pay. He explained that information on the duty to report child abuse was communicated to principals. He also indicated that if complaints involved staff members, the Director of Education and the Board of Trustees were to be informed.

There was a failure to follow Board policy with respect to Robert Sabourin. Jean-Paul Scott testified that he did not report to the CAS or the police, and presumably did not report to the Director of Education or Board of Trustees regarding C-112's complaint because of a "lack of evidence." He also did not make any notation in Robert Sabourin's personnel file. In this, Mr. Scott failed to take appropriate action in response to an allegation of sexual abuse by Mr. Sabourin.

Robert Sabourin's wife visited Principal Séguin in the spring of 1976 and asked that the meeting be kept in confidence. She told the principal that "for the good of the students," she should not retain Mr. Sabourin as a teacher in her high school. Ms Sabourin had been told by her son "what was going on" in his father's classes. In an interview with Constable Sebalj in 1997, Principal Séguin indicated that this was the first time she was aware of any issues with Robert Sabourin.

Ms Sabourin said she had seen pictures of a sexual nature and that her son had told her that her husband was having sexual relations with students at school. Ms Sabourin indicated that her husband had confessed to this but then destroyed the pictures. Jeannine Séguin told Ms Sabourin that as principal she could take no action without proof and that the union (the teachers' federation) would be an impediment if she had no "written report against him." She had no pictures and Ms Sabourin would not testify. Principal Séguin met with Robert Sabourin and discussed his leaving voluntarily. Mr. Sabourin submitted his resignation at the end of May 1976.

Principal Séguin told Superintendent Scott that Robert Sabourin had resigned. Mr. Scott did not report the circumstances of this departure to his Director of Education, Mr. Leger, or to the Board of Trustees for the School Board. The resignation was documented and reported to the Board of Trustees as being by

“mutual consent.” During the discussion with Mr. Scott, the possible impediment to dismissal represented by union intervention was discussed and appeared to be a significant factor in how the departure was handled.

Neither Superintendent Scott nor Principal Séguin contacted the CAS or the police. It was possible that there may have been victims of Mr. Sabourin who were under sixteen. He was a teacher and an authority figure. In my view, the CAS or the police should have been contacted and the Board and Superintendent Scott failed to take appropriate action.

After Mr. Sabourin left his employment at La Citadelle, Principal Séguin gave him a reference as a good teacher. Mr. Sabourin was hoping to work for a community centre in order to develop and run a cinematography centre. This would have potentially given him access to some of the same type of facilities that he had used at La Citadelle to attract and abuse teenagers. The failure to properly manage Mr. Sabourin’s departure, by permitting him to resign rather than documenting his behaviour, led to the giving of an inappropriate reference that had the potential to put other organizations and young people at risk.

In March 1996, André Lavoie provided a statement to Constable Sebalj, alleging historical abuse by teacher Robert Sabourin. When Mr. Lavoie provided evidence of Robert Sabourin’s abuse, he had reason to be concerned that his abuser could be in a position where he had access to young boys. Mr. Lavoie had attended St. Lawrence High School, in the building that also housed La Citadelle. In 1967, when André Lavoie was fourteen and in grade 9, Mr. Sabourin was his French teacher. Mr. Sabourin had expressed a personal interest in André Lavoie. Robert Sabourin began sexually abusing him, and this continued for the five years Mr. Lavoie was in high school.

An Ontario Municipal and Provincial Police Automation Cooperative (OMPPAC) search by Constable Sebalj located a record indicating that Robert Sabourin had been before the courts in Quebec in 1969 in regard to sexual improprieties.

Robert Sabourin was charged with abusing André Lavoie and others. He pleaded guilty and received a sentence of two years less a day.

Alain Seguin was a grade 7 student at École Jean XXIII in Cornwall. The thirteen- to fourteen-year-old had friends who introduced him to Robert Sabourin in 1973 or 1974. Robert Sabourin befriended the boy, encouraging his interest in photography and becoming friendly with the Seguin family. Mr. Sabourin would meet Alain Seguin in his locked office and darkroom, where he would sexually abuse him. Robert Sabourin also abused him in his car and took Alain Seguin to Ottawa as a “helper” when Mr. Sabourin took pictures of the inauguration of Archbishop Proulx. The boy was also sexually abused during this trip.

Alain Seguin indicated that he had first disclosed his abuse in 1987, to a police officer in the CPS. Approximately one month later, he disclosed to doctors

at the Royal Ottawa Hospital. There was no follow-up to this disclosure. He testified that Staff Sergeant Robert Trottier of the CPS had facilitated this assessment. Mr. Seguin testified that he had told the police officer that a teacher in high school had abused him, but the Cornwall police did not commence an investigation. In cross-examination, Mr. Seguin was less clear about his disclosure to Staff Sergeant Trottier. Alain Seguin referred to failures to respond to his disclosures as missed opportunities. I agree with Mr. Seguin.

In 1997, Mr. Seguin called the OPP Project Truth hotline, intending to report his abuse by Robert Sabourin. He was referred to the CPS. He gave a statement on January 26, 1998. Robert Sabourin was convicted and sentenced to two years less a day plus probation.

In my view, the response to the complaints of C-112 was inadequate. Principal Séguin and Superintendent Scott should have reported to the CAS and the police. It is the responsibility of the CAS and the police to investigate. If Robert Sabourin had been removed from his position at the time of C-112's complaint, the abuse of Alain Seguin might have been limited and other victims might have been spared.

Because the reasons for Robert Sabourin's departure were not properly documented, he left with his teaching qualifications intact, able to relocate and abuse elsewhere. The risk of being challenged by the teachers' federation was given greater importance than it should have received. Dismissals are often grieved, but this does not absolve institutions from following the law or Board practices and policies in place to protect students. The Board's employees failed in fulfilling their managerial duties by not sufficiently disciplining Robert Sabourin and allowing him to resign, and for not advising the Board of the reasons for his resignation.

The response to allegations against Robert Sabourin reinforces the importance of up-to-date written policies and protocols and regular training. Training should include tips to identify inappropriate behaviour by authority figures, such as having a locked office or obscuring the window on an office door, being alone regularly with students. Teachers should also be taught to recognize signs of abuse such as sudden changes in physical appearance, inexplicable anger, or crying.

Father Gilles Deslauriers

Roman Catholic priest Father Gilles Deslauriers was the full-time chaplain at La Citadelle from 1977 until early 1986. It was Jeannine Séguin's proposal to bring a priest to the school, and she arranged to pay for Father Deslauriers' salary.

Benoit Brisson made allegations of sexual abuse against Father Deslauriers in 1986. After the report of the allegations, Father Deslauriers met with Bishop Eugène LaRocque and it was agreed that he would leave the Diocese of Alexandria-Cornwall to attend a spiritual retreat. Constable Herb Lefebvre and Sergeant Ron Lefebvre of the CPS interviewed Principal Séguin in their investigation of the allegations against Father Deslauriers. She indicated that she had not received any complaints about the priest from students at the school.

The investigation revealed that Father Deslauriers used his position at La Citadelle to meet students and involve them in activities outside school, leading to the abuse of some students. The activities were generally a combination of youth group and spiritual activities sponsored by the Catholic Church. While grooming did occur at school, the acts of sexual abuse did not occur on school premises but at the St. John Bosco rectory, where Father Deslauriers was a priest in residence. The allegations of sexual abuse by Father Deslauriers became public in May 1986.

Although Jeannine Séguin was aware in early 1986 that Father Deslauriers had been asked to leave the Diocese for a period, it is unclear what information she had at the time and what, if any, information was shared with School Board officials by either the Diocese or Ms Séguin, who had retired from the Board by this time. It seems likely, however, that Board personnel would have known about subsequent media reports stemming from a May 1986 television interview conducted between Lise Brisson and Charlie Greenwell.

By June 1996, the CPS had made contact with the principal of La Citadelle concerning its investigation into Father Deslauriers. I did not hear any evidence that the principal or the School Board took any action upon learning of the police investigation, such as attempting to contact students, helping to find other potential victims, or offering any assistance with counselling.

It is unfortunate that no assistance appears to have been extended to affected students and their families or efforts made to find other students who may have been victims of Father Deslauriers' actions. In this respect, the pattern of response was similar to that in the Robert Sabourin case in the failure to adequately address the need for services for victims.

Father Deslauriers was an employee of the SD&G County Board of Education. I recommend that if a school board permits access to its students by a priest, member of a religious order, or minister or provides a school office, it must be satisfied as to the individual's suitability. It must be clear that if a complaint of sexual abuse is received, the same policies will apply as are in place for teachers, other employees, volunteers, and school bus drivers in terms of any internal investigation or follow-up with alleged complainants.

Jean Luc Leblanc

In January 1986, Jason Tyo and Scott Burgess were students at Central Public School, an English-language public school in Cornwall that was part of the SD&G County Board of Education. At the time, Jason Tyo was thirteen and Scott Burgess was fourteen years old.

Both boys reported allegations of sexual abuse over several years by Jean Luc Leblanc, a neighbour who worked as a training instructor at Transport Canada. On January 7, 1986, Jason Tyo disclosed to his former teacher, Dawn Raymond, his abuse by Jean Luc Leblanc and witnessing the sexual abuse of Scott Burgess. Ms Raymond spoke to Scott Burgess following Jason Tyo's disclosure.

Ms Raymond subsequently told her principal, Ivan St. John, what she had learned. Superintendent Lawson called the Children's Aid Society during a meeting on January 24, 1986, and Bruce Duncan of the CAS came to the Board's office that afternoon. Mr. Duncan and Ms Raymond went to Central Public School and asked Scott Burgess questions regarding his sexual abuse. The CAS also contacted the CPS that same day and the case was assigned to Constable Brian Payment on January 24, 1986.

Constable Payment's investigation revealed that Jean Luc Leblanc had sexually abused Jason Tyo, Jody Burgess, and Scott Burgess. In fact, Jody and Scott's sister Cindy was also a victim of Jean Luc Leblanc, although that information did not come out until a later investigation and prosecution. In 1986, Mr. Leblanc was charged with gross indecency. In that year, he pleaded guilty and received a suspended sentence and three years probation.

I have concluded that in the case of Jean Luc Leblanc, there was a delay in reporting to the CAS, which could have affected information obtained in the investigation or how the investigation was conducted. It is clear that training regarding duty to report sexual abuse was not reaching teachers and principals, such as well-intentioned individuals like Ms Raymond. Both Ms Raymond and Principal St. John initially reported to a superior rather than reporting to the CAS directly. This contributed to a delay, although minor.

Ms Raymond participated in investigative interviews with Mr. Duncan, asking Scott Burgess questions about the nature of sexual acts committed on him, prompted by Mr. Duncan. This created the risk that Ms Raymond, who was not a trained investigator, would ask questions that could compromise future prosecutions.

Mr. Leger and Mr. Dilamarter, Directors of Education during the 1970s, 1980s, and 1990s, testified that obligations regarding the duty to report and the practices of the Board were communicated orally to staff during the 1970s and 1980s. This was often done through briefings with principals, who were to inform their school staff. However, it does not appear that in the Jean Luc Leblanc case

all of the information reached teachers, or even principals. It may be desirable for the UCDSB to circulate periodic questionnaires or conduct audits to determine the extent to which information is reaching staff and the areas in which they need extra training or information.

As mentioned, prior to 1999 there were no written policies or standards at the UCDSB or its predecessor boards governing school bus operators, although school bus operators were provided with guidelines. Evans Bus Lines hired Jean Luc Leblanc as a school bus driver around October 1998. Mr. Leblanc told Rory Evans, the owner, that he had been convicted of sexual assault but had received counselling and had been “cured.” Mr. Evans said he was satisfied with the explanation and hired Mr. Leblanc.

On January 5, 1999, Jean Luc Leblanc was arrested by the OPP as part of the Project Truth investigation. Board officials met with Detective Constable Don Genier of the OPP. Jean Luc Leblanc pleaded guilty in 2001 to offences against several victims over many years, including Cindy Burgess-Lebrun. The offences included acts committed after his 1986 conviction with respect to Jason Tyo. Jean Luc Leblanc was designated a long-term offender and sentenced to a ten-year custodial term.

The UCDSB did not have appropriate policies and practices in place for school bus driver screening at the time of the hiring of Mr. Leblanc in 1998. Although the transportation contractor, Mr. Evans, made the hiring decision and the UCDSB was not aware of it, there did not appear to be a system in place to ensure that school bus operators complied with hiring requirements stipulated by the Board. Because contractors are providing a service for which the UCDSB is responsible, the Board must ensure that they adhere to the standards established by the Board.

After the Standards of Performance for School Bus Operators document was adopted, a new draft Transportation Contract, dated April 8, 1999, was circulated. It included a provision requiring that bus operators obtain police criminal record checks of all new drivers prior to employment. A copy of the check must be provided to the Transportation Department. It is hoped that a clearer written policy with explicit requirements regarding criminal records checks will enhance the level of screening being conducted by bus operators and avoid this type of situation occurring in the future.

Mr. David Thomas, Director of Education for the UCDSB, testified that the Board does not have communication policies with respect to providing the public or the community with information after incidents such as the arrest of Jean Luc Leblanc. While no incidents involving students on buses were reported, the lack of a comprehensive policy may mean that potential victims, or those who could have helped such victims, simply never heard about what happened.

The UCDSB should develop policies and procedures for communication to enhance the possibility that students who have been harmed in any way feel comfortable coming forward to obtain help. Openness also sends a positive message to UCDSB staff, students, parents, and the public at large that the welfare of students is of paramount importance.

Catholic District School Board of Eastern Ontario

The Catholic District School Board of Eastern Ontario (CDSBEO) is an English-language separate school board. It was created in 1998, through the amalgamation of three other school boards. The predecessor board in the Cornwall area was the English section of the former Stormont, Dundas & Glengarry (SD&G) County Roman Catholic Separate School Board.

One of the roles of a Catholic school is to educate students in the faith in partnership with home and parish. As a result, the CDSBEO works with the local diocese or archdiocese of the Catholic Church. A diocese or archdiocese provides screening and criminal record checks for priests assigned to schools. The CDSBEO does not receive the “particulars” of the screening or checks but “assurances” by the diocese that appropriate screening has occurred. If a priest is a regular presence in a school and has a role of authority in relation to children or youth, the CDSBEO is responsible for the children and young people and should satisfy itself about the rigour of screening and existence of criminal record checks for priests or members of religious orders active in their schools.

Copies of the criminal record check and any screening information should be provided to the CDSBEO by the responsible diocese or archdiocese or religious order. Alternatively, the CDSBEO should undertake the task itself. I think such a system is preferable and less intrusive to performing an audit of diocesan records, which is the approach I suggest to school boards for oversight of school bus drivers to ensure that providers of transportation follow school board policies.

I also made a recommendation to the UCDSB that if a minister, priest, or member of a religious order is an employee of a school board, the same reporting and sanctions that apply to other employees, such as school bus drivers and teachers, should apply to these employees. I suggest the same for the CDSBEO.

If the Ontario College of Teachers takes disciplinary action against a teacher, it must inform the employer. The College has a process to investigate and hear a matter and to impose discipline, including revoking a certificate. In my view, the existence of an investigative process at the College of Teachers does not absolve school boards from conducting their own internal investigation to determine whether an individual should remain in a teaching capacity following allegations of misconduct.

Like those of the UCDSB, the policies in place at the CDSBEO for reporting abuse of students aged sixteen and older are neither as detailed nor as complete as for those under sixteen and do not deal with reporting to the CAS. I recommend that the CDSBEO review policies for reporting abuse or suspicions of abuse for older students. There is always the possibility that if there is sexual abuse of students over sixteen, there could have been abuse of younger students.

Marcel Lalonde

The SD&G County Roman Catholic Separate School Board hired Marcel Lalonde as an elementary school teacher in 1969. He taught grades 7 and 8 at Bishop Macdonell School in Cornwall. Starting in the 1987–1988 school year, Mr. Lalonde was at Sacred Heart School in Cornwall, where he taught until the end of 1997.

In January 1989, CPS Constable Kevin Malloy commenced an investigation into several allegations of sexual abuse by former students regarding Marcel Lalonde. Following his investigation, Constable Malloy placed the file in abeyance and did not lay any charges against Mr. Lalonde. He did not contact the CAS or the school board where Marcel Lalonde was employed as a teacher.

In November 1993, David Silmser disclosed to CAS staff Greg Bell and Pina DeBellis that he had been sexually abused by Marcel Lalonde, a teacher at Bishop Macdonell School, when he was thirteen and fourteen years old and in grade 8. Neither the CAS, the CPS, or the Ontario Provincial Police (OPP) provided information to authorities at Bishop Macdonell School or Sacred Heart School or to the SD&G County Roman Catholic Separate School Board.

In October 1996, probation officer Sue Lariviere reported to the CPS that C-68, who was in custody at the Cornwall jail, had told her that Marcel Lalonde had sexually abused him. C-68 told Ms Lariviere that he had been repeatedly sexually abused while a twelve-year-old student in grade 7 at Bishop Macdonell School. This investigation was ultimately placed in the hands of the OPP because the location of the camping trips where the alleged abuse occurred was within their jurisdiction.

At roughly the same time as the CPS was investigating Marcel Lalonde for incidents in Cornwall, he was being investigated by the OPP in regard to the alleged sexual abuse of another former student, C-68. The OPP charged Marcel Lalonde with indecent assault with respect to this individual on January 7, 1997.

Marcel Lalonde was convicted on November 17, 2000, in regard to C-45, C-8, C-66, and another individual.

The CDSBEO notified the Ontario College of Teachers of this conviction on November 28, 2000. The Ontario College of Teachers' Discipline Committee

found Marcel Lalonde guilty of professional misconduct and his certificate of qualification and registration was revoked in February 2002. By that time, Marcel Lalonde had retired. The CDSBEO acted appropriately in removing Marcel Lalonde from teaching duties immediately on receipt of news of charges.

The *Ontario College of Teachers Act, 1996*,³⁶ provides that an employer must report promptly to the College if there is a charge or conviction that involves sexual misconduct and a minor. It is not clear whether the CDSBEO reported Mr. Lalonde's arrest and charges to the Ontario College of Teachers or whether it waited for a conviction to be obtained. I am of the view that the Board should immediately submit a report when a teacher is charged with a sexual offence.

The CDSBEO should develop a policy to address discipline or termination of convicted or charged employees. It has accountability as an employer and should not just wait for action by the College or the courts. There could be some delay between court decisions and action by the College of Teachers. In addition, even if an individual is acquitted of criminal charges, an internal investigation or review by the School Board could result in a decision that the individual is not a suitable teacher.

Gilf Greggain

Gilf Greggain started teaching at the SD&G County Roman Catholic Separate School Board in 1967. He taught at elementary schools.

In September 1987, Gilf Greggain took a leave of absence from his teaching position and resigned the following summer. A decade later, he was re-hired by the SD&G County Roman Catholic Separate School Board. In 1998, as a result of an amalgamation of school boards, he became an employee of the Conseil de District des Écoles Catholiques de Langue Française de l'Est Ontarien. In April 1998, he transferred to the Catholic District School Board of Eastern Ontario. Gilf Greggain was absent on sick leave from January 2001, and did not return to his employment.

In June 2000, Marc Latour called the OPP Project Truth hotline. He reported that Gilf Greggain, his grade 3 teacher at St. Peter Catholic School, had abused him in 1967. The case was referred to the CPS. Constable Carroll of the CPS conducted a videotaped interview of Mr. Latour.

Marc Latour testified that there was a meeting at St. Peter School with his mother, Principal Beaudette, and himself. The principal promised that Gilf Greggain would not hurt Marc Latour in future and the student was returned to

36. S.O. 1996, c. 12, s. 43.3.

his class. The abuse stopped. During this interview, Principal Beaudette asked about physical abuse but made no inquiry about sexual abuse.

Marc Latour also reported that his grade 2 teacher, Ms Gosselin, had confronted Gilf Greggain about the abuse.

The incidents that Marc Latour reported occurred in 1967. Regrettably, there is very little documented information from this period. Today, I understand that there would be action taken following a report of either physical or sexual abuse. The policy of the CDSBEO is to report allegations of abuse to the CAS. Teachers have a similar obligation. Pursuant to the current CDSBEO policy, teachers who are investigated for physically or sexually abusing children are removed from the classroom.

Lucien Labelle

The principal of École Marie Tanguay was Lucien Labelle. This elementary school was in the French-language section of the SD&G County Roman Catholic Separate School Board.

In 1985, the CPS conducted an investigation regarding Mr. Labelle. There were ten alleged female victims, aged ten to twelve years. The complaints came to light when several girls disclosed incidents to the vice-principal. The investigation started in March 1985, and Mr. Labelle was charged in June 1985. Mr. Labelle was suspended with pay when the investigation started and without pay in June 1985.

Mr. Labelle was acquitted of the charges in January 1986. He testified and denied touching students inappropriately. The Crown appealed, but the acquittals were upheld.

This Inquiry had difficulty in obtaining full information on the Lucien Labelle case. The French-language section of the former school board did not become part of the current Catholic District School Board for Eastern Ontario (CDSBEO) in 1998, and Mr. Labelle's school was in the French section of the predecessor board. The French section became part of the Conseil Scolaire de District des Écoles Catholiques de Langue Française de l'Est Ontarien. The CDSBEO indicated it could not assist this Commission by obtaining records or by identifying individuals who might have recollection of the case because another school board that was not a party to this Inquiry had responsibility for related records following reorganization.

I am concerned that those legitimately pursuing information about historical sexual abuse may find navigating the processes to obtain information difficult, due to complex reorganizations. The CDSBEO should develop protocols with the Catholic French-language boards and the public boards for dealing with information requests to ensure that they are responsive to such requests.

Institutional Response of the Ministry of the Attorney General

The Attorney General for Ontario, a member of the Cabinet and an elected member of the Ontario legislature, heads the Ministry of the Attorney General. The Attorney General has authority for criminal prosecutions under the *Criminal Code*. Authority is delegated from the Attorney General to Crown attorneys under the *Crown Attorneys Act*, whereby Crown attorneys become agents of the Attorney General for the purposes of prosecutions under the *Criminal Code*.

Crown attorneys have a responsibility to see that justice is done in individual cases. The role of the Crown is articulated in the Supreme Court of Canada *Boucher* decision, which states that the purpose of a criminal prosecution is not to obtain a conviction but to put credible information forward. Crown attorneys have duties to the public, victims, witnesses, and accused persons.

Approximately 900 Crown counsel work in the Criminal Law Division. In Cornwall, there is a Crown attorney with eight full-time assistant Crown attorneys and three per-diem lawyers reporting to him. This compares to the period 1974 to 1991, when there were two assistant Crown attorneys reporting to Crown Attorney Don Johnson.

In or around 1988, the Ministry of the Attorney General developed a policy whereby a Crown counsel in each Crown Attorney's Office was designated as a Child Abuse Coordinator. He or she would receive training to act as a resource and mentor for other Crowns and as the contact for any Victim/Witness Assistance Program in the jurisdiction. The Victim/Witness Assistance Program was established in Cornwall in October 2001.

The police have responsibility for selecting the applicable charge and deciding whether an individual should be charged with a criminal offence. While some Canadian jurisdictions require Crown attorneys to be involved in pre-charge approval and screening, Ontario does not. Once a charge is laid, the Crown counsel assigned to the case screens the charge. This means that he or she assesses whether there is a "reasonable prospect of conviction" and whether it is in the public interest to proceed. In conducting this assessment the Crown reviews the material provided by the police, which is often called a "Crown brief." The Crown has an obligation to make full disclosure to the accused or defence counsel.

An accused person is presumed innocent until proven guilty. The accused has rights under the *Charter* that support the presumption of innocence, including the right to a fair trial. This includes the right to full disclosure by the Crown and to a trial without delay.

At trial, the accused may be convicted, acquitted, or the charges may be withdrawn or stayed. A judicial stay is akin to an acquittal and can occur when there is a breach of the accused's rights under the *Canadian Charter of Rights and Freedoms*.

Nelson Barque Not Charged in 1982

On June 14, 1982, Inspector Clair McMaster, of the Ministry of Correctional Services, sent a letter to Cornwall Crown Attorney Don Johnson enclosing a copy of an investigative report, which attached the report of Peter Sirrs, Area Manager of the Cornwall Probation and Parole Office, regarding former probation officer Nelson Barque. This investigation and report are discussed in detail in the institutional response of the Ministry of Community Safety and Correctional Services. Inspector McMaster was asking Mr. Johnson for an opinion as to whether criminal charges should be laid against Mr. Barque.

According to Mr. Johnson, it was not common for a ministry to refer an internal investigation of an employee to the Crown to determine whether charges should be laid. If a government agency came to the Crown with concerns about whether an employee had engaged in criminal conduct, the standard practice was that the Crown would advise the ministry to take the matter to the police. Mr. Johnson admits he did not do that in this case. Mr. Johnson also testified that he would not, in a case like this, open a file.

I am of the view that a Crown counsel providing a formal, case-specific legal opinion to police or another investigative body should immediately open a file, identify what information or documents he or she is relying on, and keep a copy of the advice or opinion provided. If Mr. Johnson had kept copies of the documents he received from the Ministry of Correctional Services, the Crowns who prosecuted Mr. Barque in 1995 would have had access to and knowledge of this information.

There was no formal policy in place in 1982 dealing with the relationship of police with Crown counsel, nor was there a policy for the review of an internal investigative report from another ministry. I am of the view that in this instance Mr. Johnson failed to ensure that notes, correspondence, and records were properly kept and stored, that an opinion provided to the Ministry of Correctional Services was recorded, and that a file was opened with respect to the allegations.

Mr. Johnson had prior professional dealings with Mr. Barque in his capacity as a probation officer. He did not, however, believe he was in a conflict in being asked to provide an opinion because he only knew Mr. Barque in a professional capacity. There is a close working relationship between the Crown and local probation officers. This was illustrated during the prosecution of Mr. Barque in 1995, when Mr. Johnson represented Mr. Barque. During his submissions to the Court at the sentence hearing, Mr. Johnson was able to comment on Mr. Barque's work as a probation officer based on Mr. Johnson's experience of working with him when he was the Crown attorney.

In my view, if a conflict would have precluded Mr. Johnson or his office from prosecuting Mr. Barque, that conflict should also have precluded Mr. Johnson from giving an opinion about whether criminal charges should be laid. There was no conflict of interest policy in place in 1982 that dealt with this situation. Although there was no policy in place, Mr. Johnson was clearly in a conflict and should have declined to offer an opinion on this matter.

Mr. Johnson did, however, offer his opinion. In a letter dated June 22, 1982, he told Inspector McMaster that he had reviewed the material and concluded “that in the circumstances criminal charges would not be warranted”. Mr. Johnson’s understanding was that an internal investigation had been completed, that Mr. Barque had resigned, and the Ministry of Correctional Services had determined that no further action was necessary on its part. He considered these factors in reaching his conclusion.

In my view, Mr. Barque’s resignation should not have been a determining factor in deciding not to lay criminal charges. Mr. Johnson also concluded that criminal charges were not warranted because one of the allegations involved an individual, C-44, over the age of twenty-one. His understanding at the time was that if the individual was over twenty-one years old and consented, there could be no criminal charge. There was conflicting evidence as to C-44’s age. A police investigation may have clarified this matter. Had Mr. Johnson been informed that C-44 was under twenty-one it might have changed his perspective. With respect to another alleged victim, Robert Sheets, Mr. Johnson concluded it was fruitless to proceed with a charge because although Mr. Barque admitted the relationship, Mr. Sheets denied having any homosexual relationship with Mr. Barque. Mr. Barque’s admission should have prompted Mr. Johnson to refer the matter to the police for further investigation or advise the Ministry of Correctional Services to do so.

Mr. Johnson did not have a Crown brief when he provided his opinion to the Ministry of Correctional Services. During his testimony, he acknowledged the possibility that if the police had investigated in 1982, they might have uncovered other information and possibly other allegations of abuse. In my view, this matter should have been referred to the appropriate police authorities for investigation. As Mr. Johnson acknowledged, the Crown is usually asked to provide opinions to the police, presumably after an investigation has been conducted. He could not have known whether a police investigation would have been fruitless or whether it would have uncovered relevant evidence. The investigative report of the Ministry was not an appropriate substitute for a thorough and objective police investigation. Mr. Johnson did not consider the possibility that other individuals may have been abused by Mr. Barque.

R. v. Father Gilles Deslauriers

On July 2, 1986, Crown Attorney Don Johnson met with Cornwall police investigators regarding charges against Father Gilles Deslauriers. Following the meeting, charges were laid against Father Deslauriers for indecent assault on a male and gross indecency, and a warrant was issued for his arrest.

Rommel Masse, a bilingual Crown, was assigned to prosecute the matter. The preliminary inquiry took place before Justice Claude H. Paris from September 15 to 18, 1986. Benoit Brisson, one of the victims of Father Deslauriers, testified at the preliminary inquiry.

On September 18, 1986, Father Deslauriers was committed to stand trial on seven counts of indecent assault on a male and four counts of gross indecency. He had initially been charged with eight counts of indecent assault and eight counts of gross indecency. Mr. Masse advised Mr. Johnson that some of the charges had been withdrawn because of insufficient evidence.

On November 10, 1986, Father Deslauriers pleaded guilty and was convicted of four counts of gross indecency. The remaining counts were withdrawn at the request of the Crown. He received a suspended sentence and probation for two years with a condition that he comply with the directives of Bishop Adolphe Proulx.

Mr. Brisson, Denyse Deslauriers, his wife, and Lise Brisson, his mother, all testified that they were frustrated by the inadequacy of the sentence.

Mr. Masse sent a lengthy letter to the Crown Law Office requesting an appeal of the sentence imposed on Father Deslauriers. He also wrote to Mr. Johnson advising that he was not satisfied with the results and was requesting a Crown appeal.

In January 1987, Mr. Masse tried again to convince the Crown Law Office to appeal, given that the Crown was appealing a suspended sentence imposed on Father Dale Crampton, a priest convicted of sexual offences in the Ottawa area. This appeal resulted in Father Crampton being sentenced to a period of eight months of incarceration. In a letter to the Director of the Crown Law Office, Mr. Masse wrote that it was important for the Crown to be consistent in similar matters.

Crown counsel in both the Deslauriers and the Crampton matters requested that the sentences imposed at trial, neither of which included a period of incarceration, be appealed. Unfortunately, none of the materials reviewed by the Crown Law Office in determining whether to appeal were filed as exhibits at the Inquiry. Without the benefit of those materials, I am not prepared to comment on the decision of Crown Law Office not to proceed with an appeal of Father Deslauriers' sentence.

R. v. Jean Luc Leblanc, 1986

The investigations of Jean Luc Leblanc in 1986 and again in the late 1990s were discussed in the institutional responses of the Cornwall Police Service (CPS) and the Ontario Provincial Police (OPP). This section examines the prosecution of Mr. Leblanc in 1986 following the CPS investigation into allegations of sexual abuse made by Jason Tyo and Scott and Jody Burgess.

Constable Brian Payment testified that on January 27, 1986, he met with Crown Attorney Don Johnson regarding the Jean Luc Leblanc matter. On that date, Constable Payment swore an information containing three counts of gross indecency against Mr. Leblanc. Mr. Johnson acknowledged that the statements in the Crown brief alleged multiple acts that spanned over four years. The information sworn by Constable Payment refers to one count of gross indecency against each of three boys, rather than multiple acts against each of them, as they had alleged. In addition, allegations of anal sex were not captured in the charges laid. When asked about this, Mr. Johnson said he did not draft the information but agreed that he could have amended it.

In May 1986, defence counsel for Mr. Leblanc suggested that his client might plead guilty to one of the charges if the other two were withdrawn. Mr. Johnson responded a few months later and suggested that Mr. Leblanc plead guilty to two counts of gross indecency, because he felt they were “two separate and distinct incidents and should be treated as such.” The Crown ultimately withdrew the count related to the allegations of Scott Burgess. Mr. Johnson did not consult with Mr. Burgess in making this decision.

Mr. Johnson testified there may have been credibility issues with regard to Mr. Burgess. He said that if he had been aware that the three boys witnessed the abuse on each other and that Mr. Leblanc had made an inculpatory statement to Constable Payment, it would have minimized his concerns about Mr. Burgess’ reliability. This information was contained in the Crown brief.

At trial, on November 6, 1986, Mr. Leblanc pleaded guilty to two counts, the remaining count having been withdrawn at the request of the Crown. Mr. Leblanc received a non-custodial sentence of three years probation with the condition that he attend a counselling program arranged by the probation office. There were no terms in the probation order with regard to contact with victims or youth. Within weeks, he was abusing one of the same victims.

Scott Burgess testified that he did not meet with the prosecutor and was not told that the charges involving him were withdrawn. Mr. Johnson acknowledged that he had no contact with Mr. Burgess. It appears that in this matter the investigating officer and the victims found out about the plea arrangement only after the fact. Mr. Johnson did not inform the investigating officer, which, in hindsight, he should have.

Don Johnson's failure to provide advice on these charges, and his unfortunate view that the victims' apparent willingness was a mitigating factor, led to Mr. Leblanc not being appropriately charged. Had Mr. Leblanc been charged with additional or more serious offences, he may have received a harsher sentence that may have included a period of incarceration or more restrictive conditions in his probation order.

Crown Opinions Provided to the Children's Aid Society Before 1991

A matter came to the attention of the Crown involving allegations of abuse against the foster father at the Cieslewicz foster home. These allegations were of both past and present allegations and made by girls residing in the Cieslewicz foster home. On November 1, 1978 Mr. O'Brien of the CAS of SD&G wrote to Mr. Dalby, Director of Child Welfare Branch, that he had met with Crown Attorney Johnson, Assistant Crown Attorney Guy DeMarco, and Angelo Towndale, also of the CAS of SD&G. The letter stated that after considering the facts presented to him, Mr. Johnson was of the opinion that there was insufficient evidence to proceed with any charges against Mr. Cieslewicz. Mr. Johnson testified that he has no recollection of this meeting.

Another CAS matter that came to the attention of the Crown was an incident in late 1982 at a CAS group home operated by Mr. and Mrs. Lapensee. One of the girls alleged that she and the other girls in the home were being sexually molested by Brian Lapensee, the son of Mr. and Mrs. Lapensee. Mr. O'Brien took the matter to the Crown Attorney's Office. Mr. Johnson does not recall meeting with Mr. O'Brien about these allegations.

There was another incident at the same group home in April 1983, with allegations against the same individual. On April 20, Mr. O'Brien discussed this incident with Assistant Crown Attorney Alain Ain. Mr. Ain's opinion was that there was no point in pursuing charges against Brian Lapensee at that time. It does not appear that Mr. Ain was provided with a copy of the December 1982 serious occurrence report. Nor does Mr. O'Brien, in this letter, discuss the earlier complaints and investigation.

In both the Lapensee and Cieslewicz cases, the police were never notified about the complaints.

In my view, these are examples of the Ministry of the Attorney General providing advice to Ministry agencies without allowing for a proper and sufficient investigation by police authorities. The Ministry also failed to ensure that notes and records were properly kept and stored, that opinions provided were properly recorded, and that files were opened with respect to allegations of sexual abuse. A policy should provide that allegations of sexual

abuse reported to a Crown counsel be immediately turned over to police authorities for investigation.

In 1989, a former CAS ward named Jeannette Antoine alleged that she was abused at the Second Street group home when she was a child. She recounted physical abuse and sexual acts by staff members at the group home including John Primeau, Brian Keough, and Derry Tenger. On September 25, 1989, Crown Attorney Johnson met with CPS Deputy Chief Joseph St. Denis, Inspector Richard Trew, and Mr. O'Brien. Mr. Johnson did not recall the meeting but accepts that he was there. It appears that no instances of sexual improprieties were discussed.

Mr. O'Brien recalled that he went to the Crown because he knew many of the Crown attorneys personally. It was easier for him to go directly to the Crown and he had confidence in Mr. Johnson's abilities. On October 3, 1989, Mr. O'Brien had another contact with Mr. Johnson about this matter.

It appears from Mr. O'Brien's notes that he went back to the police because of information in a case worker's notes that suggested inappropriate sexual behaviour by CAS staff while the group home was in operation.

According to Mr. O'Brien's notes, on February 7, 1990, Constable Kevin Malloy advised Mr. O'Brien that there was not sufficient evidence on which the police could proceed and the Crown attorney agreed with this decision.

According to Constable Malloy, he had credibility issues with Ms Antoine's statement that he discussed with Inspector Trew, and then he sought advice from Crown Attorney Johnson. He showed Mr. Johnson all the statements and believes Mr. Johnson read Ms Antoine's statement in its entirety. The purpose of the meeting, according to Constable Malloy, was to look at the issue of reasonable and probable grounds to lay charges. Constable Malloy understood that following this meeting, Crown Attorney Johnson would be sending information about this matter to the Regional Director of Crown Operations. Constable Malloy was waiting for a response from the Crown and put the file in abeyance.

Mr. Johnson testified that he would never tell a police officer whether to lay charges. That is not his job.

On April 4, 1990, Mr. Johnson sent a letter to Norman Douglas, Director of Crown Attorneys, Eastern Region, enclosing the statement given by Jeannette Antoine to Constable Malloy regarding allegations of abuse by CAS staff. The letter stated: "Although there appears to be some factual basis for a further investigation, I cannot find any indication of specific dates when the alleged incident occurred, or any names and addressed [sic] of any witnesses whom [sic] may substantiate the allegations."

Mr. Johnson further wrote that he was informed that an investigation had been carried out in the late 1970s and certain CAS employees had been let go but no charges were laid.

Mr. Douglas wrote a reply to Mr. Johnson on April 10, 1990, indicating that the Crown ought to have the police investigate every allegation of abuse and that the police should begin an investigation in this matter if they had not already done so. Mr. Johnson testified that he does not recall receiving this letter. He recalls being approached in the mid-1990s by Constable Malloy and Staff Sergeant Garry Derochie, who asked if he recalled receiving the letter. If Mr. Johnson did not in fact receive this letter, he acknowledges that he did not follow up on his April 4 letter.

Mr. Johnson agreed that the miscommunication that resulted in his not receiving this letter is “unacceptable.” He also acknowledged that because Mr. Douglas’ instructions to dig deeper were not followed, many other aspects of the Jeannette Antoine investigation were muddled up.

In January 1994, Constable Shawn White of the Cornwall Police Service was assigned to re-investigate Jeannette Antoine’s allegations of abuse at the Second Street group home. During the course of the investigation, Constable White heard allegations that John Primeau, a worker at the Second Street group home, had abused young residents. On June 14, 1994, Constable White met with Peter Griffiths, Director of Crown Operations, Eastern Region. Constable White advised him of the three alleged incidents of sexual abuse committed by Mr. Primeau. Constable White also told Mr. Griffiths that he had received allegations of sexual abuse in other foster homes. Constable White prepared an extensive brief which he provided to Mr. Griffiths.

On October 19, 1994, Mr. Griffiths and Murray MacDonald met with Constable White. Constable White’s notes state that during the meeting, Mr. Griffiths said he had read the brief and “was in agreement with us that there was no evidence to support Ms Antoine’s allegations against Bryan Keough,” another CAS worker. The police did not proceed with the allegations of sexual misconduct by other workers because the complainants were not willing to make formal complaints and had problems remembering some of the facts. With respect to the allegations of physical abuse made by Jeannette Antoine, the Crown was of the view that they could show only common assault, a summary conviction offence for which the limitation period had already lapsed.

By letter dated October 24, 1994, Mr. Griffiths provided a written opinion to Constable White. Regarding the allegation of sexual abuse made by Ms Antoine against Bryan Keough and Derry Tenger, also a CAS worker. Mr. Griffiths concluded: “Given the nature of this allegation, the age of the complaint and the lack of confirmatory evidence, it is my opinion that you do not have reasonable and probable grounds for the laying of any charges arising out of this complaint.”

The executive director of the Children’s Aid Society, Richard Abell, was not provided with the brief for this investigation. Apart from being informed that Ms Antoine made allegations against Mr. Keough, he was not given the names of

additional alleged victims or abusers. He testified that, having since seen the brief, he believes it is something he should have reviewed at the time given the extent of the allegations.

Mr. Abell suggested that had the CAS known of the allegations made during Constable White's investigation, an effort could have been made to connect with the alleged victims to obtain additional information and provide them support. There were two reporting issues that arose in this case. The first is the duty to report allegations of abuse of children to the CAS. Mr. Griffiths was not the only witness to testify that there was a lack of clarity surrounding the obligations under the duty to report. The duty to report issue was further complicated in this situation by the fact that allegations were made against individuals who were or had been employed by the CAS or who were otherwise supervised by them, as the agency they were to report to. The second reporting issue that arose was whether the CAS should be contacted in its role as the employer of the individuals accused of abuse. In my view, the protection of children trumps the privacy interests of any employee who in the course of employment at a public institution works with children.

Murray MacDonald's Advice During Investigation of David Silmser's Complaint

The complaint made by David Silmser to the Cornwall Police Service in 1992 regarding allegations of sexual abuse by Father Charles MacDonald and probation officer Ken Seguin has been covered in extensive detail in the institutional response of the CPS. Cornwall Crown Attorney Murray MacDonald interacted with CPS officers about the investigation into Mr. Silmser's allegations. He also provided an opinion not to proceed with charges once Mr. Silmser indicated that he did not want to continue with or participate in the criminal investigation.

Constable Heidi Sebalj met with Crown Attorney MacDonald only once during her investigation, on March 2, 1993, according to her notes. However, Mr. MacDonald recalls having numerous meetings with Constable Sebalj.

According to Mr. MacDonald, Constable Sebalj first met with him in February 1993. It was an informal meeting. He recalled that they met to discuss this case seven to ten times between February and August 1993. Staff Sergeant Luc Brunet, who was Constable Sebalj's supervisor, was aware that she was having meetings with Mr. MacDonald. Mr. MacDonald did not take notes of these meetings and did not recall Constable Sebalj taking notes either. He testified that his practice changed after this case.

During the first meeting, according to Mr. MacDonald, Constable Sebalj told him she was not close to having reasonable and probable grounds and she wanted

to know where to go to help construct those grounds. She indicated she had just started her investigation. Mr. MacDonald believes she was seeking his assistance in part because this was a high-profile matter with a high-profile accused.

Mr. MacDonald recalls that in either the first or second meeting, Constable Sebalj showed him the handwritten statement provided by David Silmsr. In this statement, Mr. Silmsr made allegations against Father MacDonald and probation officer Ken Seguin.

Murray MacDonald read the statement and thought there was a need for more details, such as information about the probation officer including any details of the abuse by Mr. Seguin. Mr. MacDonald instructed Constable Sebalj to ask the complainant to provide this additional information. The only document Mr. MacDonald saw between February and September 1993 was the handwritten statement from Mr. Silmsr.

On March 2, 1993, Constable Sebalj met with Mr. MacDonald at the Criminal Investigation Bureau (CIB) office. Constable Sebalj's notes indicate that Mr. MacDonald became concerned about her grounds. He suggested that she meet with the victim and asked to be kept up to date.

Mr. MacDonald testified that Constable Sebalj was not seeking legal advice but wanted suggestions about where to turn next in collecting evidence. Mr. MacDonald did not suggest to her until weeks later that she should confer with her supervisor. He thought Constable Sebalj came to him for advice because the Cornwall Police Service was encumbered by illness and the staff was overwhelmed with work. She was very busy, as was her supervisor, Staff Sergeant Brunet, so Mr. MacDonald thought it would be more expedient if he "cut to the chase" and advised her to obtain certain additional information.

I am of the view that Crown counsel and police officers should be encouraged to collaborate. The current Crown practice memorandum on the relationship between Crown counsel and the police provides, "While the mutual independence of the relationship is of fundamental importance, account should also be taken of the need for mutual co-operation and reliance at all stages of an investigation and court proceedings." It also states, "While it would be generally inappropriate for Crown counsel to provide the overall direction for an investigation, it is proper for Crown counsel to advise the police on legal issues." I believe that Mr. MacDonald may have gone too far in providing direction to the investigation, which perhaps should have come from others at the CPS. He was doing so without the benefit of a Crown brief and without having reviewed any of the notes or witness statements. The problem was compounded by the fact that Constable Sebalj was a relatively new investigator, with little supervisory support, dealing with allegations of historical sexual abuse that were bound to become a high-profile case if charges were laid.

Murray MacDonald was aware that Mr. Seguin was a probation officer in Cornwall and that Father MacDonald was an active priest. Both of these professions involve regular contact with children and youth. The Crown attorney testified that he knew about the duty to report. In hindsight, he agreed that after reading Mr. Silmsers statement there was a duty to report. The issue of giving notice to the CAS did not arise until Mr. MacDonald conferred with Staff Sergeant Brunet and later Chief Claude Shaver in the fall of 1993. It is unfortunate that he did not suggest to Constable Sebalj or Staff Sergeant Brunet that the CAS be notified.

At one point, Constable Sebalj advised Murray MacDonald of a negotiation between Mr. Silmsers and the Diocese. Mr. MacDonald's impression was that Mr. Silmsers took the initiative to contact the Diocese. It is clear in my mind that although Mr. Silmsers first contacted the Diocese, it was the Diocese who initiated the settlement discussions.

Murray MacDonald received calls from Malcolm MacDonald, Father MacDonald's lawyer, two or three times regarding this matter. In the first call, Malcolm MacDonald told the Crown Attorney that Mr. Silmsers had cause to be angry with the Church for not supporting him and his mother years ago. Murray MacDonald presumed he meant that the priest and the Diocese were inclined to negotiate with Mr. Silmsers because they felt he had been wronged generally by the parish or by a priest. The second call Murray MacDonald received from the priest's lawyer was in late August or early September 1993, immediately after Constable Sebalj told him that the settlement had been reached. Malcolm MacDonald advised that a settlement had been reached. He also said he could have easily discredited Mr. Silmsers in a criminal trial; they considered it a nuisance claim and so settled and gave the complainant some money for counselling. According to Murray MacDonald's evidence, the tenor of this conversation was different from the first call, and he felt uncomfortable. It concerned him because it was more "dismissive of the complainant's" credibility and also left him with the impression that Malcolm MacDonald could believe that the settlement would also end the criminal case. Murray MacDonald testified, "So I specifically told him, 'As you know, this will not end the criminal case,' because I wanted to make it very clear at this point, now that I was sensing this new attitude."

Murray MacDonald's message was that the criminal investigation would continue and that charges might be laid. The fact that Malcolm MacDonald appeared to believe the civil settlement would end the criminal case did not raise a red flag for the Crown attorney. It did not cross Murray MacDonald's mind that Malcolm MacDonald had obstructed justice.

This is difficult to understand. If Malcolm MacDonald was contacting the Crown attorney during the investigation and before knowing whether charges

would be laid, Murray MacDonald should have been suspicious that something was not right. By the time Murray MacDonald received the second phone call from Malcolm MacDonald, he should have known that the civil settlement was related to the criminal investigation. We now know that during this second call, Malcolm MacDonald knew the release contained a clause providing that the settlement would end the criminal investigation.

Murray MacDonald also had contact with Jacques Leduc, a lawyer representing the Diocese. He believed this was after his second call with Malcolm MacDonald.

Murray MacDonald recalls that Mr. Leduc contacted him after the matter had been settled and Mr. Leduc recalls that the contact was before it was settled. If it was after the matter had already been settled, Murray MacDonald should have been suspicious of the reason for the call.

I find that Murray MacDonald did not have knowledge that the settlement involved the criminal proceedings.

As discussed, Constable Sebalj interviewed individuals in March and April 1993 who also alleged that Father MacDonald had sexually assaulted them in their youth.

It is apparent from Constable Sebalj's notes that in March 1993, C-56 and C-3 alleged that Father MacDonald had sexually abused them. Murray MacDonald was not aware of this information at the time.

Mr. MacDonald testified that despite the information Constable Sebalj received from C-3 and C-56, she never formed a subjective view that she had reasonable and probable grounds to lay a charge before Mr. Silmsen insisted he did not want to proceed further.

On or around September 8, 1993, Murray MacDonald met with Staff Sergeant Brunet and Constable Sebalj. Mr. MacDonald was shown a copy of correspondence the Cornwall Police Service received from Malcolm MacDonald enclosing a statement from Mr. Silmsen saying he no longer wished to proceed with criminal charges. Murray MacDonald was concerned that Malcolm MacDonald did not seem to have listened when Murray MacDonald told him that the criminal matter would continue regardless of the civil settlement.

It was clear to Murray MacDonald that Mr. Silmsen's decision to withdraw the complaint was tied to the settlement. Mr. MacDonald presumed that Mr. Silmsen decided after receiving the money that he was not interested in proceeding with the criminal case any further. Alternatively, he may have thought that because of the civil settlement, the police would no longer be interested in the case. Mr. MacDonald sent the officers back to advise Mr. Silmsen that he was incorrect in his presumption that the police were not interested in continuing with the investigation.

Mr. MacDonald presumed that if the settlement had not been reached, Mr. Silmsers would have continued his dealings with Constable Sebalj. However, he did not think to look at the settlement document to see if it precluded Mr. Silmsers from continuing with the criminal investigation. He assumed that Mr. Adams would have told Mr. Silmsers that any bar to criminal proceedings is unenforceable and illegal. Mr. MacDonald believed all of the lawyers involved in the settlement were acting in good faith.

Staff Sergeant Brunet wrote to Murray MacDonald on September 9, 1993, stating that the Cornwall Police Service had received a letter from Malcolm MacDonald. A statement from Mr. Silmsers was attached, indicating that he had received a civil settlement and no longer wished to proceed with criminal charges. Staff Sergeant Brunet wrote that he understood the Crown's office did not prosecute without the full cooperation of the victim and requested Murray MacDonald's direction in this regard.

On September 14, 1993, Murray MacDonald wrote a letter to Staff Sergeant Brunet as requested. The letter reads:

It is our policy not to compel victims of sexual crimes to proceed against their wishes. Also, the officer was tentative on the issue of R. and P.G. before this so-called "settlement". Grounds are now even further obfuscated by the fact that he has evidently used this threat of criminal prosecution as a means of furthering his efforts to gain monetary settlement.

It is evident that Mr. Silmsers's allegations suggest a very serious breach of trust by the alleged perpetrator. These concerns can, of course, be put to the suspect's principals if you deem it appropriate. However, this case is fraught with (due to his own conduct) a very non-credible complainant, saddled with an evidence ulterior motive for making these allegations.

It is, as you are aware, exceptionally difficult to put supportive victims through the sexual offence trial process. It is for policy reasons, not in the public interest to put a reluctant witness through the same process. This is especially so when that reluctant witness will be "crucified" in cross-examination.

Murray MacDonald acknowledged that he had presumed bad faith on Mr. Silmsers's part regarding his comments about Mr. Silmsers using the threat of criminal prosecution as a means to further his efforts to gain a monetary settlement. He presumed

that Mr. Silmsen had used him and the police to get his money. In his evidence, Mr. MacDonald admitted he was wrong. Mr. Silmsen testified that he wanted criminal charges to be laid and only after he was told the criminal investigation was not going anywhere did he decide to go forward with the civil settlement.

Murray MacDonald acknowledged that he made several statements in the letter about Mr. Silmsen's credibility and motivations that were statements of opinion reported to him primarily by Constable Sebalj. He agreed that the opinions expressed about Mr. Silmsen and his allegations are very negative. Mr. MacDonald never met with Mr. Silmsen to assess his credibility.

When Mr. MacDonald wrote this letter, he had not been provided with a Crown brief. He was relying on Constable Sebalj's verbal summaries of what occurred in the investigation. Murray MacDonald conceded that the practice he applied then was not the best practice. It is apparent that Murray MacDonald was not aware of all of the details of this investigation when he prepared his opinion letter. Given his vast experience with victims of historical sexual abuse and the particular difficulties they have in disclosing allegations, and given his knowledge of the existence of other alleged victims, I find the tone and content of his opinion letter to Staff Sergeant Brunet troubling.

Sometime between February and September 14, 1993, Murray MacDonald spoke with Crown Attorney Robert Pelletier. Mr. MacDonald testified that he told Mr. Pelletier that if the police laid charges against the priest, he would have Mr. Pelletier review the case to determine if there was a reasonable prospect of conviction. According to Murray MacDonald, the reason for involving Mr. Pelletier was not because he had a legal conflict but because he was concerned about an appearance of bias.

Murray MacDonald first heard about the illegal clause in the settlement from Charlie Greenwell, a television reporter, in January 1994. In that month, the Ottawa Police Service interviewed Mr. MacDonald. Superintendent Skinner and Staff Sergeant Blake were critical of Mr. MacDonald's conduct in the Silmsen investigation and concluded that after declaring his conflict of interest, he should have referred the investigation to another Crown attorney. Mr. MacDonald should have realized that any involvement on his part in the investigation, and his opinion letter recommending no further action be taken, were not advisable.

It is my opinion that Crown Attorney Murray MacDonald did not exercise good judgment in this case. He became too involved in providing investigative advice without having knowledge of all pertinent information. He then wrote an opinion letter that was insensitive to the alleged victim, Mr. Silmsen, and was written without full knowledge of the facts. Crown counsel must ensure that they have all relevant facts and information before providing opinions to investigating officers.

1994 Investigations by the Ontario Provincial Police

The OPP conducted four separate but related investigations in the Cornwall area in 1994. One was the re-investigation of David Silmser's allegations of sexual assault against Father Charles MacDonald. The second looked at allegations that the Cornwall Police Service, the Diocese of Alexandria-Cornwall, and the local Crown Attorney had conspired to obstruct justice by arranging for a cash payment to Mr. Silmser that would terminate the criminal investigation. The third investigation concerned allegations that the settlement with Mr. Silmser constituted an attempt to obstruct justice. The fourth investigation involved allegations made by the family of deceased probation officer Ken Seguin that Mr. Silmser had attempted to extort money from Mr. Seguin.

The Director of Crown Operations in the Eastern Region, Peter Griffiths, was involved in a liaison capacity in those investigations. He dealt primarily with Detective Inspector Fred Hamelink, who led the extortion investigation, and with Detective Inspector Tim Smith, who was in charge of the investigations into Father MacDonald and the conspiracy to obstruct justice.

Extortion Investigation

Mr. Griffiths understood that the extortion investigation was conducted concurrently with the investigation into allegations made by David Silmser against Father MacDonald. In Mr. Griffiths' experience, it was unusual to have an individual as an alleged victim in one investigation and an alleged suspect in another.

The concurrent investigations involving Mr. Silmser gave rise to two issues. The first issue was how to conduct the interview of Mr. Silmser given that he was both an alleged victim and an alleged suspect. The second was how to coordinate the preparation and presentation of the briefs to the Crown for an opinion about whether charges should be laid in one or both of the investigations.

Detective Inspectors Smith and Hamelink agreed that after completing their investigations, they would compare notes and then present their briefs to Mr. Griffiths for his opinion at the same time. Both Detective Inspectors Smith and Hamelink recall that this arrangement was discussed during the February 21, 1994 meeting at Mr. Griffiths' office. Mr. Griffiths never looked at both briefs together. He was not aware that Detective Inspector Smith and Detective Inspector Hamelink did not have an opportunity to review each other's briefs before providing them to him.

On September 29, 1994, Detective Inspector Hamelink and Detective Constable McDonnell attended at Mr. Griffiths' office and provided him with an oral summary of the extortion investigation and the brief. Since Mr. Griffiths had not yet received a brief from Detective Inspector Smith on the Father MacDonald investigation,

he contacted him on October 11 and requested that he finish the investigation soon. The next day Mr. Griffiths wrote his opinion letter on the extortion investigation to Detective Inspector Hamelink.

Detective Inspector Smith expedited the delivery of his briefs so that Mr. Griffiths could review them with Detective Inspector Hamelink's brief. Mr. Griffiths did not review the briefs with a view to determining if there were any inconsistencies between the investigations. Mr. Griffiths' opinion on the extortion investigation was that there was insufficient evidence to establish reasonable and probable grounds that Mr. Silmsen had committed the crime of extortion.

Investigations of Father Charles MacDonald, Conspiracy, and Obstruction of Justice

On February 8, 1994, Detective Inspector Smith called Mr. Griffiths to advise him that he was starting his investigations and that he would like to obtain a copy of the settlement between Mr. Silmsen and the Diocese of Alexandria-Cornwall. Mr. Griffiths contacted Peter Annis, the lawyer for the Diocese, and arranged for Mr. Annis to provide Detective Inspector Smith with a copy of the settlement document.

Mr. Griffiths received the briefs from Detective Inspector Smith in early November 1994 and took several weeks to review them. On December 20, Mr. Griffiths called Detective Inspector Smith and provided his verbal opinion about the investigations. This was their first discussion after Detective Inspector Smith sent the briefs. According to the officer's notes, Mr. Griffiths advised him that with respect to Father MacDonald there was objectively enough credible evidence but subjectively there was not honest belief. Mr. Griffiths also made a comment about the credibility of Mr. Silmsen being a problem. Mr. Griffiths followed his verbal opinions with written opinions the following day. The written opinion on the Father MacDonald investigation differs from the notes Detective Inspector Smith took of their initial conversations, which illustrates why it is a good practice for a Crown counsel to confirm their legal opinions in writing. The Crown letter states that it was Mr. Griffiths' opinion that the police had neither objective grounds nor subjective belief.

On December 21, 1994, Mr. Griffiths also provided a written opinion to Detective Inspector Smith with respect to the "investigation into allegations of collusion between the Cornwall Police Service, the Crown Attorney and the Diocese of Alexandria-Cornwall to not charge and prosecute Father Charles MacDonald for improper reasons." Mr. Griffiths concluded that the evidence did not reveal criminal activity. As he explained, conspiracy is an unlawful agreement between parties, and he found there was no direct or indirect evidence of any agreement between those parties.

As I discussed in the institutional response of the Ontario Provincial Police, this investigation suffered from several deficiencies. Mr. Griffiths could have requested that investigators follow up on some of these deficiencies, including the interview of Father MacDonald, the interview of Malcolm MacDonald, and the apparent lack of investigation into the involvement of the lawyers Jacques Leduc and Sean Adams. In all of these investigations, Mr. Griffiths' opinions were based on the information provided by the investigating officers. Neither Detective Inspector Smith nor Detective Inspector Hamelink received any direction or request from Mr. Griffiths for further follow-up or clarification.

According to Mr. Griffiths, his opinion letter sets out what he thinks are weaknesses in the case, and if the police think they can remedy those weaknesses they can conduct further investigation. He did not see it as part of his role to scrutinize the sufficiency of the police investigation. Detective Inspector Smith, however, said that when the police send a brief to a Crown, the Crown will often request further investigation and the police will follow those instructions. He felt that if a Crown was not satisfied with portions of a brief it should be brought to the attention of the police.

It appears that in this instance, the police and Crown may not have been clear with respect to their respective roles. To ensure the efficiency and effectiveness of investigations, it is crucial that the Crown and police have a common understanding of what role each plays.

R. v. Malcolm MacDonald: Attempt to Obstruct Justice

Peter Griffiths was concerned about a potential obstruction of justice as early as January 1994. The settlement document provided that in return for \$32,000, Mr. Silmsen would not proceed with a criminal or civil action against Father Charles MacDonald.

Mr. Griffiths received a brief from Detective Inspector Tim Smith on the attempt to obstruct justice investigation on or about November 7, 1994. Included in the brief was a synopsis prepared by the OPP. Detective Inspector Smith was concerned about all three of the lawyers' actions with respect to the settlement.

After reviewing the brief, Mr. Griffiths contacted Detective Inspector Smith on December 20, 1994. He told the OPP officer that it was appropriate to contact the Law Society of Upper Canada about the three lawyers involved, Mr. MacDonald, Jacques Leduc, and Sean Adams: the obstruct justice did not constitute an offence but was unprofessional. Two days later, Mr. Griffiths contacted Detective Inspector Smith and advised him, as noted by the officer, "problem with Malcolm MacDonald, possible obstruct. Further consultations to be done."

With respect to the obstructing justice allegations, the issue was not whether the release signed by David Silmser, in which he agreed not to pursue a civil or criminal complaint in exchange for a monetary settlement, was a lawful document, but whether a criminal offence had been committed in the creation of the document. There was no doubt in Mr. Griffiths' mind that the clause in the release prohibiting Mr. Silmser from bringing a criminal complaint was illegal; the question was whether the individuals involved in drafting the document had committed a crime. Mr. Griffiths wanted another opinion, so he asked Don McDougall, a senior Crown attorney, to review the brief.

On January 30, 1995, Mr. Griffiths advised Detective Inspector Smith that Mr. McDougall thought there were reasonable and probable grounds to believe Mr. MacDonald had attempted to obstruct justice. There was also a reasonable prospect of conviction, and it was in the public interest to prosecute.

After receiving the opinion from Mr. McDougall, Mr. Griffiths was comfortable providing an opinion to Detective Inspector Smith that Mr. MacDonald should be charged. Mr. Griffiths did not believe there were reasonable and probable grounds to charge the other two lawyers with attempt to obstruct justice. The brief was forwarded to Mr. McDougall for his opinion, and he recommended charges only against Malcolm MacDonald. The investigation of the attempt to obstruct justice allegation was deficient. Based on the information that was available for review at the time, it was unlikely the Crown would conclude that charges should be laid against Mr. Adams or Mr. Leduc.

Unlike the opinions provided in the Father MacDonald, the extortion, and the conspiracy investigations, Mr. Griffiths did not prepare a written opinion on the obstruction of justice investigation. During his testimony, he agreed the better practice is to provide written opinions. In my view, a written opinion should have been provided in this case.

After Malcolm MacDonald was charged, Mr. Griffiths assigned the file to the Brockville Crown Attorney's Office. The Cornwall Crown Attorney's Office could not conduct the prosecution because Malcolm MacDonald was a lawyer from the Cornwall area. Brockville Crown Attorney Curt Flanagan, who had sole carriage of the prosecution, had no previous dealings with Malcolm MacDonald and did not know him personally or professionally.

Mr. Flanagan's understanding was that Mr. Leduc prepared a draft of a release that did not mention criminal proceedings. The draft was then sent to Mr. MacDonald, who prepared the release and sent it back to Mr. Leduc in a sealed envelope, which Mr. Leduc did not open. In terms of Mr. Adams' role, Mr. Flanagan gleaned from Mr. Adams' statement to the OPP that he had not noticed the insertion of the word "criminal" into the release. Mr. Flanagan was not asked for a legal opinion about whether Mr. Leduc, Mr. Adams, or Bishop Eugène LaRocque should be charged in connection with the settlement document.

On September 12, 1995, Malcolm MacDonald pleaded guilty to the offence of unlawfully attempting to obstruct justice for arranging a monetary payment to Mr. Silmsen in order to dissuade him from participating in the Father MacDonald investigation.

The defence submitted that an absolute discharge was an appropriate sentence. Mr. Flanagan did not object to the defence position on sentencing. He cited four reasons for taking this position, one of which was that the matter would be reported to the Law Society of Upper Canada. According to Mr. Flanagan, he believed the complaint to the Law Society would have some repercussions for Mr. MacDonald. He was not aware, however, whether any action was taken in this regard. In hindsight, as a condition of its agreement with the defence position on sentencing, the Crown should have required that the defence prove to the Court that the complaint had been or would be filed with the Law Society.

R. v. Nelson Barque and Subsequent Complaint

In 1995, Nelson Barque was prosecuted by the Cornwall Crown Attorney's Office for sexual offences committed against a former probationer, Albert Roy. The allegations by Mr. Roy and the investigation and arrest of Mr. Barque have been discussed. Don Johnson had left the Crown's office about three years previously and was working as a criminal defence attorney in Cornwall. He was retained to represent Mr. Barque in these proceedings. In a letter dated January 16, 1995, Murray MacDonald, who at the time was the Crown attorney in Cornwall, raised the issue of an appearance of conflict with Mr. Johnson.

There were no formal policies or protocols regarding potential conflicts of interest for these situations. Mr. Johnson did not believe there would be a conflict if the matter were resolved by way of a guilty plea. Crown Attorney MacDonald agreed with Mr. Johnson's position.

Guy Simard, an assistant Crown attorney in the Cornwall office, was assigned the prosecution.

Both Crown attorneys involved in this matter raised the issue of Mr. Johnson's potential conflict of interest and it had been documented. The matter was properly dealt with, and there is no reason why the Crown's office should have insisted on Mr. Johnson's removal from the file unless the matter was to proceed to trial.

On July 10, 1995, Mr. Barque pleaded guilty to indecent assault and the matter was put over for sentencing on August 18. He was sentenced to four months incarceration and eighteen months probation. One of the conditions of his probation was that he not be in the presence of any young person under the age of eighteen unless in the company of another responsible adult.

On or about February 7, 1996, Crown Attorney MacDonald received a letter from Constable Sebalj of the Cornwall Police Service in which she provided a

report about allegations of sexual assault involving Nelson Barque. The letter explained that the alleged victim, C-44, had not wished to be involved in the prosecution of Mr. Barque in 1995 but now wanted to formally proceed in respect to allegations of sexual abuse by Mr. Barque. As discussed, C-44 was one of the probationers involved in the 1982 investigation of Mr. Barque. Constable Sebalj provided some details about the 1982 investigation, including the fact that Mr. Barque admitted to having sexual relations with C-44 while he was a probationer. Constable Sebalj was seeking advice as to whether charges could be laid against Mr. Barque in respect of C-44's allegations. Crown MacDonald forwarded Constable Sebalj's letter and the attached material to Peter Griffiths.

After reviewing the material received from Mr. MacDonald, Mr. Griffiths concluded that criminal charges should not be laid in this case. It appears that Mr. Griffiths was not in possession of all of the relevant facts before providing an opinion regarding this investigation. He had not been advised of the 1995 conviction of Mr. Barque or made aware that there were other potential victims, such as Robert Sheets. He had not been provided with other available information, such as OPP Detective Constable William Zebruck's notes on the interview of witnesses in the Albert Roy investigation. Mr. Griffiths also never had the opportunity to meet with Constable Sebalj. In this case, Mr. Griffiths relied on materials forwarded to him by Mr. MacDonald and did not have any discussions with the investigating officer.

R. v. Father Charles MacDonald: *Charges Laid and Preliminary Inquiry*

In late 1994, Peter Griffiths provided an opinion to the OPP that reasonable and probable grounds did not exist to lay charges in respect of David Silmser's allegations against Father Charles MacDonald. In the following year, John MacDonald and another individual, C-3, disclosed allegations against Father MacDonald, and the police investigation continued. On May 19, 1995, Detective Inspector Tim Smith advised Mr. Griffiths of the new allegations against Father MacDonald.

Mr. Griffiths testified that there was still a concern about having the local Crown prosecute. As a result, he had to find another prosecutor in the Eastern Region. On January 15, Mr. Griffiths called Mr. Pelletier and asked him to become involved in the Father MacDonald investigation and prosecution.

On January 31, 1996, Mr. Pelletier met with Detective Inspector Smith and Detective Constable Fagan. Mr. Pelletier had reviewed the brief and intended to request additional materials from the officers. He requested the records of the civil proceedings filed by the complainants, David Silmser, John MacDonald and C-3. Mr. Pelletier wrote his opinion before obtaining copies of the civil transcripts.

After his review of materials provided by the officers, Mr. Pelletier provided his recommendations for charges in February 1996. He recommended three charges of indecent assault for the incidents with Mr. Silmsers, three charges of indecent assault for the incidents with John MacDonald, and one charge of indecent assault for the incident with C-3.

In his written opinion memo, addressed to Detective Inspector Smith, Mr. Pelletier concluded that “reasonable and probable grounds exist for the laying of a total of seven counts of indecent assault in respect of the three complainants.” In addition, he wrote that it was his view “that in the event that the complainants testify in a forthright and credible manner, there exist reasonable prospects of conviction in respect of each charge.”

There was one incident for which Mr. Pelletier recommended against laying a charge and that was the allegation made by Mr. Silmsers of attempted buggery. Mr. Pelletier based this decision on the fact that Mr. Silmsers gave various contradictory accounts of the incident and could not provide any details about how it took place.

On March 6, 1996, an information with seven counts was sworn. Father MacDonald was charged with three counts of indecent assault against Mr. Silmsers, three counts of indecent assault against John MacDonald, and one count of indecent assault against C-3.

Mr. Silmsers testified that he did not become aware of the charges against Father MacDonald from a police officer or from a Crown attorney. Rather, he found out from John MacDonald, his lawyer, and the media. This is an example of the lack of communication between the Crown attorney and the alleged victim that could have been resolved by the assistance of a victim liaison person.

Mr. Pelletier had a difficult relationship with Mr. Silmsers throughout the prosecution and as a result, he decided that it would be prudent to have no further direct contact with Mr. Silmsers. Mr. Pelletier contacted Mr. Silmsers’s lawyer, Bryce Geoffrey, and informed him that he did not intend to speak directly with Mr. Silmsers anymore and that if Mr. Silmsers had anything to communicate, he should do so through his lawyer. He advised Mr. Geoffrey that it would be counter-productive if he spoke to Mr. Silmsers, and that if a serious conflict between them developed it could result in Mr. Pelletier being unable to conduct the prosecution.

If Mr. Pelletier had been speaking with Mr. Silmsers, he may have discovered who this fourth complainant was. The revelation of C-8’s allegations later caused some delay in the prosecution, which may have been partly avoided had his name been known to the Crown as early as July 1996. In my opinion, this is an illustration of the problems caused by the lack of communication between the Crown and a victim in this case.

A liaison person could have played the role of an intermediary and perhaps have assisted in resolving their differences. Mr. Pelletier pointed out during his testimony that the Victim/Witness Assistance Program (VWAP) was not established in Cornwall until 2001. The VWAP office in Ottawa did provide services to some of the complainants in the Father MacDonald prosecution starting in early 2000. In my opinion, Mr. Pelletier could have taken steps to involve the Ottawa VWAP office in assisting Mr. Silmser and other complainants in 1996.

The preliminary inquiry commenced on February 24, 1997, and the first witness called was John MacDonald. That evening, C-8 appeared on television and discussed his allegations against Father MacDonald. Mr. Pelletier was not familiar with C-8's name before February 25.

Mr. Pelletier now understands that a statement was taken from C-8 on January 23, 1997, in which he disclosed allegations against Father MacDonald. Mr. Pelletier testified that the videotaped statement was not part of the disclosure received from the OPP. It appears that this non-disclosure was inadvertent.

The issue of C-8's complaint was raised on the record on February 25. Defence counsel stated that he was not willing to proceed with the preliminary inquiry because of the existence of the videotaped statement of C-8, which dealt with certain allegations against his client. The preliminary inquiry was recessed in order to allow counsel to view the videotape.

The preliminary inquiry was continued on February 26. The continued cross-examination of John MacDonald was adjourned and C-3 took the stand. After C-3's testimony, the defence requested a further adjournment. The judge ruled against an adjournment. The adjournment was ultimately granted because defence counsel advised that he would be filing an application for a prerogative writ. The preliminary inquiry resumed in September of that year.

Mr. Pelletier agreed that the Father MacDonald case continued to progress in a more complex case with the disclosure of the Fantino Brief. Mr. Pelletier was first advised of the existence this brief on March 18, 1997.

The Initiation of Project Truth and Assignment of Crowns

As discussed in the institutional response of the Ontario Provincial Police, on March 20, 1997, Detective Inspector Tim Smith, Detective Constable Michael Fagan and Crown Attorney Robert Pelletier met to discuss the Fantino Brief. It was decided that Mr. Pelletier would review the Brief and arrange a meeting with the Director of Crown Operations, Eastern Region, Peter Griffiths. This meeting was scheduled for April 24, 1997.

The meeting on April 24, 1997, was attended by Detective Sergeant Pat Hall, Detective Constables Fagan and Don Genier, Detective Inspector Smith, and

Crown Attorneys Peter Griffiths, Murray MacDonald, and Robert Pelletier. The purpose of the meeting was to determine the course of action in light of the Fantino Brief. However, the brief included allegations against Murray MacDonald personally.

According to Mr. Griffiths, Mr. MacDonald was invited to the meeting because these events were occurring in his jurisdiction and the instructions as to how the matter was to proceed needed to be clear to him. It was decided at the meeting that neither he nor any staff from his office would provide legal advice or prosecute cases arising from the investigation of the Fantino Brief. He was also advised that his conduct would be reviewed. I question the appropriateness of having Murray MacDonald attend the meeting because of the conflict of interest arising from the allegations against him.

It was also decided at the meeting that the OPP would investigate all of the allegations in the Fantino Brief.

Mr. Griffiths testified that at or around the time of the April 24, 1997, meeting, Curt Flanagan, the Brockville Crown attorney, was asked to be the liaison person with the OPP investigation on behalf of the Crown. The OPP's operational plan for Project Truth provided that Mr. Flanagan would be the Crown to provide legal opinions and prosecute cases. Shelley Hallett recalled Mr. Flanagan recommending that there be a team of Crowns to work on Project Truth. However, Mr. Flanagan never assumed the liaison role, and unfortunately no one else did either.

Mr. Pelletier agreed that in large prosecutions with multiple offenders and multiple victims, thought should be given to assigning a dedicated Crown to conduct the prosecutions. Project Truth began with three complainants against a local parish priest and became an investigation into complaints by dozens of people against almost as many local figures. Detective Inspector Hall believed that not having a dedicated Crown led to a major delay in the OPP concluding its investigation in Cornwall.

I am of the view that a dedicated Crown should have been assigned early on in the Project Truth investigations to assist the investigators and direct the prosecutions. When Project Truth officers were first made aware of the Fantino Brief and the allegations made by Claude Marleau, there were allegations against twenty-seven individuals. As early as the summer of 1997 it became apparent that serious consideration should have been given to the need for a dedicated Crown.

This Crown would not have been prosecuting specific cases but could have provided direction to some of the investigations, given pre-charge advice, provided timely opinions to the investigators, reviewed Crown briefs, assigned cases to be prosecuted, and monitored their progress. This would have ensured consistency

in decision making, encouraged the sharing of expertise, and opened lines of communication to discuss cases. A dedicated Crown could also have assisted in the request for and management of resources and assisted in the set-up of a disclosure tracking system. In future special projects of this magnitude, a dedicated Crown should be assigned to assist throughout the investigation.

One of the difficulties in Project Truth prosecutions was the initial assignment of Crowns. At the outset, Mr. Pelletier took on a number of matters and reviewed them to provide an opinion on charges. Ms Hallett had been assigned to the Jacques Leduc, Dr. Arthur Peachey and Malcolm MacDonald matters, but a number of cases had yet to be assigned. Mr. Pelletier, who, at the time, was Acting Director of Crown Operations, Eastern Region, was looking for a bilingual Crown from outside the jurisdiction to assume responsibility for some of these cases. In mid-September 1998 it was confirmed that Mr. Alain Godin would take carriage of these prosecutions.

Both Ms Hallett and Mr. Godin addressed the lack of resources available to Crowns in the Project Truth prosecutions. In January or February 2001, Ms Hallett asked the local Crown attorney, Murray MacDonald, if she could be assigned a separate office, but there were none available. During the Jacques Leduc trial, Ms Hallett was provided with a sort of cloakroom in the courthouse where the Crowns and the police would leave their shoes, boots, and coats during the day. According to Ms Hallett, this was not an adequate place to have interviews with witnesses or meetings with defence counsel. For the most part, victim and witness interviews took place at Ontario Provincial Police detachments. Both Mr. Godin and Ms Hallett used their hotel rooms as an office and would often meet with the officers there.

Prosecutions Related to Allegations Reported by Claude Marleau

Claude Marleau disclosed allegations of historical sexual abuse against a number of men from the Cornwall area. The details of these allegations are described in the institutional response of the Ontario Provincial Police and in the institutional response of the Diocese of Alexandria-Cornwall.

On April 1, 1998, Crown Robert Pelletier was provided with briefs pertaining to a number of alleged abusers of Claude Marleau: Roch Joseph Landry, Father Paul Lapierre, George Sandford Lawrence, and Dr. Arthur Blair Peachey. On April 3, Mr. Pelletier was provided with a further brief of allegations against Father Ken Martin. Mr. Pelletier was to review the Crown briefs and provide an opinion on criminal charges.

On May 7, 1998, Mr. Pelletier provided Detective Inspector Tim Smith with a memorandum on all of the allegations in these Crown briefs. Mr. Pelletier was of the opinion that the matters involving Dr. Peachey, Father Martin, and

Mr. Lawrence should proceed to a preliminary inquiry. Mr. Pelletier suggested that following the preliminary inquiry, the merits and public interest of each case be assessed to determine if they were sufficient to prosecute the accused. Furthermore, he wrote that consent was an issue in these cases. Mr. Pelletier had “no hesitation whatsoever in recommending charges against Roch Joseph Landry” and Father Lapierre.

Alain Godin was assigned to conduct these prosecutions. Detective Inspector Pat Hall received confirmation that Mr. Godin was assigned to these cases on September 17, 1998.

Meanwhile, on July 2, Milan Rupic, Acting Director of Special Investigations, the office responsible for prosecutions of justice-related officials, met with Shelley Hallett and advised her that Murray Segal, the Assistant Deputy Attorney General, Criminal Law Division, had requested that she assist with the prosecutions in Cornwall. Ms Hallett was designated as a “specialist” in child abuse and domestic violence prosecutions. She was asked to conduct the prosecution of Dr. Peachey, as well as that of Jacques Leduc, another Project Truth prosecution. She was also asked to review and provide an opinion about whether to lay charges against Malcolm MacDonald.

At the time of Mr. Godin and Ms Hallett’s assignment, all alleged perpetrators related to the Marleau allegations had been charged. The two Crowns did not recall being provided with Mr. Pelletier’s opinion on the charges in these cases. Ms Hallett noted that she would have appreciated receiving more background information when she became involved in Project Truth. These opinion letters should follow the prosecution file regardless of which Crown counsel eventually prosecutes the matter. Crown counsel should have a tracking system so their opinion letters can be retrieved if and when charges are eventually laid.

On November 20, 1998, Don Johnson, the former Crown attorney who was the defence counsel for a number of Mr. Marleau’s alleged abusers, requested the disclosure of Constable Perry Dunlop’s involvement in these matters. On April 21, 1999, shortly before the commencement of the preliminary inquiries, Mr. Johnson requested further disclosure following comments made by MPP Garry Guzzo in the media.

On May 6, 1999, defence counsel brought an application before Justice Gilles Renaud for the adjournment of the preliminary inquiry to permit the defence to bring a disclosure application. At the Crowns’ suggestion, Justice Renaud agreed to review the documents in question and provide guidance on disclosure. On May 7, he ruled, “With respect to all of this material, there is absolutely nothing that in any way appears to remotely assist the defence from any perspective.”

On May 17 and 18, 1999, Justice Renaud presided at the *R. v. Roch Joseph Landry* preliminary inquiry in Cornwall and committed the accused to stand trial. From May 19 to 27, 1999, Justice Renaud heard the preliminary inquiries

for *R. v. Father Paul Lapierre*, *R. v. Father Kenneth John Martin*, *R. v. George Sandford Lawrence*, and *R. v. Dr. Arthur Blair Peachey*. On May 27, Justice Renaud committed all four accused to stand trial. Justice Renaud accepted Mr. Godin's argument and ruled in favour of holding a joint preliminary inquiry for Father Lapierre, Father Martin, Mr. Lawrence, and Dr. Peachey. Justice Renaud thus agreed to have Mr. Marleau testify about the abuse he suffered from many of his alleged abusers, rather than testifying about his experiences with each accused singly. This permitted the Crown to advance the "grooming theory" to answer an argument that Mr. Marleau may have consented to some of the acts.

Mr. Godin's statement during the preliminary inquiry proceedings that there was a connection between the various accused was reported in a broadcast by Maureen Brosnahan of CBC Radio 1. In the same report, Klancy Grasman, Deputy Director of the OPP's Criminal Investigation Branch, was quoted saying that "there is no evidence at all that there was any type of organized ring or common thread through any of this."

Detective Inspector Hall was concerned by the conflicting messages being sent out by the OPP and the Crown in relation to whether or not there was a ring. In my view, in a major or high-profile case there should be a media representative speaking on behalf of both the police and the Crown Attorney's Office to ensure that the message disseminated to the public is clear, accurate and represents the position of both institutions.

Dr. Peachey died in December 1999, before his trial. The charges against him were withdrawn on December 8, 1999. Shortly before Mr. Landry's trial, Mr. Godin learned that Mr. Landry was very ill. Mr. Landry died on October 24, and the charges against him were withdrawn on December 20, 2000.

The trial of Father Lapierre was held from September 4 to September 7, 2001. One of the central issues in the case was the age of Mr. Marleau at the time of the alleged abuse. If Mr. Marleau was more than fourteen years old at the time of an incident, evidence had to be led that he had not consented to the act. Mr. Godin intended to put forward a theory of grooming to establish that Mr. Marleau had not consented. However, unlike the preliminary inquiries, which were heard jointly by one judge, each accused was tried separately before a different judge.

On September 13, 2001, Justice Lalonde acquitted Father Lapierre. He did, however, state that he believed Mr. Marleau and that consent was not an issue. He found that Father Lapierre represented an authority figure and that there was a power imbalance in the relationship between a priest and a young boy.

Mr. Marleau and C-109 had both reported allegations of abuse by Father Martin. The Crown joined both informations in a single indictment, and the matter proceeded to trial on September 17 to 19, 2001. Mr. Godin prepared written submissions on the issue of consent, which were presented to the trial

judge. He focused on the abuse of trust in the relationship between Father Martin and Mr. Marleau. Mr. Godin agrees that the issue of consent was not sufficiently explored or canvassed with Mr. Marleau. Justice Cusson noted in his judgment that the acts between Mr. Marleau and Father Martin were “consensual acts held in private, between two individuals who were of consenting age.” At the time, Father Martin would have been around thirty-five or thirty-six years old and Mr. Marleau would have been around fifteen. Recent amendments to the *Criminal Code* have since raised the age of consent to sixteen. Justice Cusson further noted that with respect to the allegations of C-109, it was feasible that the alleged victim may have misinterpreted the gestures of the accused and although he accepted the evidence in question he had not been convinced of the guilt of Father Martin to the charge of indecent assault, beyond a reasonable doubt.

The trial of Mr. Lawrence was held from October 1 to 3, 2001. After the Crown closed his case, defence counsel brought a motion for dismissal of the case for lack of evidence. The charge of indecent assault was dismissed by Justice Charbonneau, because the Crown had failed to prove that Mr. Marleau had not consented to the sexual activity. Mr. Godin testified that it did not help his case that he was not able to present the full portrait of Mr. Marleau’s allegations. The trial continued on the remaining charge of gross indecency. On October 5, Mr. Lawrence was acquitted of this charge.

Mr. Godin did attempt to use the links between the alleged perpetrators to establish that consent was not an issue. However, because the trials were heard separately and before different judges, it was difficult for Mr. Godin to present the links between the alleged abusers of Mr. Marleau.

As discussed, some of Mr. Marleau’s allegations were reported to police authorities in Quebec because the incidents were alleged to have occurred in the Montreal area. As a result, criminal prosecutions against two priests of the Diocese of Alexandria-Cornwall, Father Lapierre and Father René Dubé, were held in Montreal. Father Lapierre was convicted and Father Dubé was acquitted.

On June 8, 2004, Justice Garneau of the Cour du Québec rendered his judgment in the Father Lapierre matter. The Court found the evidence of Mr. Marleau to be reliable and credible and convicted Father Lapierre on the charge of gross indecency. On October 1, 2004, he was sentenced to twelve months imprisonment followed by three years probation.

In the Father Lapierre proceedings in Quebec, the trial judge accepted the notion that a perpetrator introducing a victim to another perpetrator demonstrated that there appeared to be a ring. Mr. Godin testified that he used the notion of the victim being passed between the accused in support of his theory on grooming.

On September 11, 2006, the Quebec Court of Appeal upheld the finding of guilt and the sentence imposed by Justice Garneau.

R. v. Harvey Joseph Latour

C-96 attended the Project Truth office with Claude Marleau on July 31, 1997, and gave a videotaped statement. C-96 alleged that he had been a victim of historical sexual abuse by Roch Landry and Harvey Joseph Latour. With respect to Mr. Latour, C-96 said that he worked in his restaurant when he was in junior high school, and that the abuse occurred in the basement of the restaurant while he was working. Mr. Latour was charged on July 9, 1998, with one count of indecent assault against C-96.

On May 19, 1999, Justice Gilles Renaud heard the preliminary inquiry in *R. v. Harvey Joseph Latour* and determined there was sufficient evidence to commit Mr. Latour to stand trial. Mr. Godin prepared an indictment with one count of indecent assault on a male, dated July 29, 1999. The *R. v. Latour* matter proceeded to trial on June 26, 2000, before Justice Byers. He found Mr. Latour not guilty because the Crown had not proved identification beyond a reasonable doubt.

R. v. Marcel Lalonde

As discussed in the institutional response of the Cornwall Police Service, Marcel Lalonde was an elementary school teacher with the Stormont Dundas & Glengarry County Roman Catholic Separate School Board from 1969 until he was relieved from his teaching duties in January 1997. On January 9, 1989, Constable Kevin Malloy of the CPS spoke with C-60, who alleged he had been sexually abused by Mr. Lalonde but refused to involve himself in the process. The following day, Constable Malloy interviewed C-57, who alleged that when he was sixteen years old Mr. Lalonde frequently provided him with alcohol and sexually abused him on a couple of occasions. C-57 also said that Mr. Lalonde wanted to take nude pictures of him and showed him a photo album with photos of nude males.

Constable Malloy sought legal advice and direction from Crown Attorney Don Johnson. The CPS Constable testified that he did not at the time have reasonable and probable grounds to charge Mr. Lalonde but he wanted confirmation from the Crown. According to Constable Malloy, he attended the Crown Attorney's Office but did not take notes of the conversation.

Constable Malloy testified that he had a second meeting with Mr. Johnson after the investigation was more complete to discuss the issue of consent and the possibility of seeking a search warrant. According to Constable Malloy, the Crown said he did not have the grounds to obtain a warrant and that consent would be an issue. Mr. Johnson did not recall this meeting with Constable Malloy

either. According to Constable Malloy, Mr. Johnson did not recommend that he interview Mr. Lalonde and did not suggest that he contact the Children's Aid Society or the school board to report the allegations. Based on his conversation with the Crown attorney, Constable Malloy decided not to proceed with charges. He placed the file in abeyance.

As discussed, in August 1994 the OPP, the CPS, and the Children's Aid Society were aware of David Silmser's allegations of abuse by his former teacher at Bishop Macdonell School, Mr. Lalonde. The Ministry of the Attorney General had no involvement in or around this time since CPS Staff Sergeant Brunet had determined that "without cooperation of the victim, no further action can be taken."

In late 1996 and early 1997, a number of other complainants came forward alleging they were abused by Mr. Lalonde.

Mr. Lalonde was arrested by the OPP and charged with one count of indecent assault on a male on January 7, 1997, with respect to the allegation of C-68. He was arrested again on April 29 by officers of the CPS and charged with eight counts of indecent assault on a male, seven counts of gross indecency, and one count of sexual assault with regard to the allegations of C-45, C-8, C-58, Kevin Upper, C-66, and another person. A search warrant was obtained and executed on the day of Mr. Lalonde's arrest.

The prosecution of Mr. Lalonde was referred to the Brockville Crown Attorney's Office in May 1997. Brockville Crown Attorney Curt Flanagan assigned Assistant Crown Attorney Claudette Wilhelm to the case.

The preliminary inquiry in the *R. v. Lalonde* matter was held on January 13 to 15, 1998. Mr. Lalonde was committed to stand trial on all seventeen counts. Constable Perry Dunlop testified for the defence in the preliminary inquiry. It became evident that he had not disclosed all documents in his possession, including those pertaining to C-8.

The trial of Mr. Lalonde was originally scheduled for February 1999. It was adjourned to October 4, 1999. In October, the matter was further adjourned to September 11, 2000, due to disclosure issues. On October 4, Detective Constable Genier, Ms Wilhelm, Constable Desrosiers, CPS Staff Sergeant Rick Carter, and CPS Staff Sergeant Derochie discussed the Dunlop notes in relation to the Marcel Lalonde matter. Ms Wilhelm said she had no confidence that the Crown had received all the documents from Constable Dunlop. She told Staff Sergeant Derochie that she could not say to the defence with any certainty that full disclosure had been made.

In a letter dated October 5, 1999, the Crown requested that Detective Inspector Hall again attempt to obtain full disclosure from Constable Dunlop. Ms Wilhelm was also concerned about Constable Dunlop continuing to contact witnesses and requested that Detective Inspector Hall ask him whether he spoke to complainants

and whether he did so in an official capacity as a police officer. The Crown advised that the defence position was that he was contaminating the prosecution of the case.

On October 13, Detective Inspector Hall met with Marc Garson, a Crown from London, Ontario, to discuss the issue of Constable Dunlop having committed perjury. On November 19, 1999, Mr. Garson issued a legal opinion. Upon receiving Mr. Garson's opinion, the CPS, in consultation with Assistant Crown Attorney Wilhelm, prepared a comprehensive order to Constable Dunlop. As a result, Constable Dunlop provided a 110-page will-state and pages of notes. Detective Constable Genier and Constable Desrosiers reviewed these materials for disclosure purposes in the Lalonde matter.

At the same time that the Crown and Police were dealing with the Dunlop notes, information was obtained that CPS may have been in possession of a previous investigative file concerning Mr. Lalonde. This was another disclosure issue which contributed to the adjournment of the trial.

The trial in the Marcel Lalonde matter was held in September 2000. Mr. Dunlop failed to attend as a witness. On September 12, one of the complainants in the Lalonde matter, C-8, testified under oath that some of his allegations were not true. In particular, he admitted that the allegation that he was abused by Mr. Lalonde during a school trip to Toronto was not true.

On November 17, 2000, notwithstanding the recantation of C-8, Justice Métivier found Mr. Lalonde guilty on six counts relating to C-45, C-8, another victim, and C-66. On May 3, 2001, Mr. Lalonde was sentenced to a term of incarceration of two years less a day.

R. v. Father Charles MacDonald: *New Charges Laid and Trial*

As discussed, the 1993 and 1994 investigations by the CPS and the OPP, respectively, did not lead to charges being laid against Father Charles MacDonald. In 1996 charges were laid in respect of allegations of historical sexual abuse made by three victims: David Silmser, John MacDonald, and C-3. The preliminary inquiry began in February 1997 and was adjourned in part because of new allegations that surfaced against Father MacDonald. During this time, Project Truth was commenced. The preliminary inquiry resumed on September 8, 1997, and was completed on September 11. On October 24, Father MacDonald was committed to stand trial on all charges.

As described in the institutional response of the OPP, Project Truth investigated additional allegations against Father MacDonald, and by the end of October 1997, additional charges were being contemplated by the OPP. Detective Constable Joe Dupuis had several contacts with Crown Attorney Robert Pelletier about this matter during the fall of 1997.

Mr. Pelletier was provided with a brief on January 6, 1998. He recommended that a number of charges be laid against Father MacDonald. Detective Constable Dupuis swore an information with the new charges on January 26, 1998. Father MacDonald was charged with one count of indecent assault against each of Kevin Upper and C-5, two counts of indecent assault against C-8, one count of sexual assault and one count of gross indecency against Robert Renshaw, and one count of indecent assault and one count of gross indecency against C-4.

There was some difficulty in scheduling the judicial pre-trial in relation to the first set of charges regarding allegations of David Silmser, John MacDonald and C-3. On April 1, 1998, Mr. Pelletier wrote to the scheduling clerk and Chief Justice's assistant, and copied defence counsel representing Father MacDonald, Michael Neville. The letter outlined a summary of the issues to be discussed, including joining the charges and the potential resulting delays. Mr. Pelletier believed that his intentions about joining the charges were clear in November 1998. He was aware that the preliminary inquiry on the second set of charges was scheduled for March 1999. He was concerned about the delay, as was the Justice presiding at the Assignment Court.

Following the pre-trial conference with Justice Desmarais, Mr. Pelletier received a letter from defence counsel on January 19, 1999. Mr. Neville said he could not attend for the next appearance.

The adjournment hearing was held on January 21, 1999, before Justice Forget. The agent appearing on behalf of Mr. Neville stated that he was instructed not to waive Father MacDonald's section 11(b) *Charter* rights. The matter was adjourned to Assignment Court on May 12, 1999, pending the completion of the preliminary inquiry on the other charges. Therefore the delay proceeding to trial on the first set of charges could affect Father MacDonald's right to a trial within a reasonable time.

The preliminary inquiry on the second set of charges was held in March 1999. Father MacDonald was committed to stand trial on these charges on May 3, 1999. Mr. Pelletier prepared an eight-count indictment on May 5.

Shortly after the preliminary inquiry, Mr. Pelletier determined that he was in a conflict and requested that the file be assigned to a new Crown. It became clear to Mr. Pelletier that certain individuals in the community were convinced that Murray MacDonald might be part of a group alleged to be undertaking a campaign to obstruct justice and to prevent charges from being laid and cases going to court. Mr. Pelletier testified that since the trials were "looming" and Murray MacDonald might be a witness, "it became abundantly clear to me that I could not go on as prosecutor."

At a meeting on April 9, 1999, it was decided that Shelley Hallett would be assigned to prosecute Father MacDonald.

When Ms Hallett was assigned to take over this file, no trial date had been set for either set of charges. The first set of charges was approximately three years old and the second set of charges approximately one and a half years old. Mr. Pelletier had held back the first set of charges to allow the second set to proceed to the preliminary inquiry. There was clearly some delay caused by this decision. Ms Hallett said when she took over the file, she was not aware of any other significant delays in the proceedings.

On August 27, 1999, Mr. Pelletier and Ms Hallett had a meeting to prepare for the upcoming judicial pre-trial on September 7. One of the issues to be determined at the pre-trial conference was whether to join the indictments. After considering all the issues, Ms Hallett was of the view that the charges should be joined.

Mr. Pelletier attended the pre-trial on September 7, 1999, with Ms Hallett to ensure a transfer of information from the preliminary inquiries. Although Ms Hallett believed they had advised defence counsel by this point that they were going to proceed by joining the indictments, it appears this issue was not discussed in any detail during the pre-trial conference. Another issue that was not discussed was delay and section 11(b) of the *Charter*.

A significant amount of time had already passed since charges had been laid. I would expect that the Crown would by this time at least consider the risk that the defence would bring a section 11(b) application to have the charges stayed for unreasonable delay. As will be discussed, this did happen and the charges were stayed.

Ms Hallett elected to join all charges in a single indictment. Throughout the prosecution, Mr. Pelletier felt strongly that the charges should be heard together. Mr. Pelletier weighed the pros and cons of joining the indictments in terms of the issue of delay. He testified that it was a calculated risk. Ms. Hallett signed the joint indictment on September 10, 1999. Around this time, a six-week trial was scheduled to begin on May 1, 2000.

I am of the view that the Crown could have proceeded separately with the indictments. This may have prevented a stay of proceedings on the first set of charges. However, I do not believe that at the time either Crown could have entirely predicted how events would unfold.

On October 22, 1999, there was a follow-up pre-trial with Justice Desmarais attended by Ms Hallett, Mr. Neville, and Detective Constable Dupuis. It does not appear that the issue of delay was discussed at this pre-trial conference. I am of the view that both Robert Pelletier and Shelley Hallett should have addressed it with the pre-trial judge.

The OPP became aware of another alleged victim of Father MacDonald during a meeting with Constable Dunlop on January 17, 2000. A statement was taken from C-2 on January 26. Project Truth officers advised Ms Hallett of C-2's allegations against Father MacDonald shortly after they learned of them.

Ms Hallett received two further volumes of the Father MacDonald brief, one of which dealt primarily with C-2's allegations, on March 23, 2000. On March 30, Ms Hallett wrote a letter to Detective Inspector Hall providing her opinion with respect to C-2's allegations. Ms Hallett testified that she was concerned about how these new counts might affect the outstanding Father MacDonald prosecution. She advised defence counsel about this new complainant and the new charges that would be laid in a letter dated April 6, 2000.

Given that the trial was scheduled to begin on May 1, Ms Hallett acknowledged that she expected the defence might request an adjournment, although not necessarily on the basis of these additional counts. Constable Dunlop had disclosed new documents pursuant to the January 10, 2000, production order and he was being criminally investigated for perjury. Ms Hallett testified that the perjury investigation had "a significant impact on the Charles MacDonald trial since Constable Dunlop had identified so many of the original complainants on that matter." It should be noted here that Constable Dunlop was ultimately never charged with perjury.

Ms Hallett should not have been providing opinions on matters that she was currently prosecuting. As was indicated in the 1997 Policy P-1, "Police—Relationship with Crown Counsel," "a Crown counsel who gives advice to the police is a potential witness. If charges are laid, Crown counsel may be subpoenaed to testify on the trial proper, the voir dire determining the admissibility of evidence, or a Charter motion." Although the opinion never became an issue, Ms Hallett should have been more careful and not risked any further delays in an otherwise already problematic prosecution.

On April 10, 2000, Detective Constable Dupuis swore an information containing four charges regarding C-2's allegations against Father MacDonald. Defence counsel agreed to have the new counts added to the existing indictment following an expedited preliminary inquiry. In light of these events, Ms Hallett wrote to defence counsel on April 12, 2000, about bringing the Father MacDonald matter to Assignment Court on April 18.

The matter was spoken to on April 18, 2000, before Justice Desmarais. Ms Hallett advised the Court of three things. The first was the identification of a new complainant in the Father MacDonald matter. She outlined the options she had proposed to Mr. Neville to deal with the new charges. Second, she advised the Court that on April 5, 2000, Project Truth investigators had become aware of banker's boxes of materials that had been brought to the Cornwall Police Service by Constable Dunlop. Ms Hallett told the Court that an OPP officer had reviewed the materials and there was nothing relevant to the Father MacDonald case that had not already been disclosed. However, she intended to review the contents of the boxes herself. The third matter concerned the perjury investigation of Constable Dunlop.

The Crown said that although she would be prepared to proceed to trial on May 1, she felt that in light of the ongoing investigation and new materials the correct position to present to the Court was a joint request for an adjournment. Ms Hallett proposed coming back and reporting, perhaps sometime in June, on the progress in terms of sorting out the new material. Although she agreed the case had become more complex, she did not think it was as “unwieldy” as characterized by defence counsel in his submissions.

The pre-trial was adjourned to August 23, 2000, at which time it was expected counsel could indicate their state of readiness for trial and that a trial date would be set.

Although it was not raised during the court appearance on April 18, 2000, it is clear that the Crown was concerned about delay and about a potential 11(b) application by the defence. In my view, this was a missed opportunity to address the issue of delay on the record. It may have been beneficial for the Crown to know what the defence position was at that time. On April 19, Ms Hallett wrote a letter to regional Crown James Stewart advising him that the Judge felt the scheduled trial date of May 1 was unrealistic. She also advised that defence counsel had not protested the Judge’s opinion and that she expected he would attempt to use the delay to support an application for a section 11(b) stay.

On April 5, 2000, Constable Dunlop delivered nine banker’s boxes of materials to the Cornwall Police Service. On April 10, Constable Dunlop delivered a will-state and four volumes of appendices, also to the CPS. The review of these nine boxes was a major undertaking for Ms Hallett that inevitably led to further delay in providing disclosure and preparing for trial. She should have requested additional assistance or resources to help her deal with this material more quickly and efficiently. Over the course of the summer, Ms Hallett completed her review of the Dunlop boxes.

When the matter again came before Justice Desmarais on August 23, 2000, she told the Court that she had reviewed the nine boxes provided by Constable Dunlop and that she believed that full disclosure had been made to the defence. She further advised that the criminal investigation of Mr. Dunlop was completed and that, although charges were not going to be laid, the results of the investigation were in the possession of the Crown and had been given to the defence.

On this day, Ms Hallett provided the defence with a further volume of the Crown brief. At this time, the Crown was in a position to set a trial date. Ms Hallett’s position was that the items provided to the defence that day could be reviewed in sufficient time before the next trial date, which was April 2, 2001. Defence counsel said he needed more time to review the new disclosure. Due to this new disclosure, the Judge agreed to adjourn the matter to October 18, 2000, and set a trial date at that time.

In my view, it took an inordinate amount of time for the Crown to review the Dunlop materials and disclose them to the defence. The untimely disclosure led to delays, and once again, the issue of further delay was not specifically addressed on the record.

The preliminary inquiry on charges relating to C-2's allegations was conducted from August 28 to 30, 2000. Father MacDonald was committed to stand trial on those charges, which included two charges of gross indecency and two charges of indecent assault. On October 18, 2000, a new indictment was prepared consolidating the previous indictment of September 1999 with these new charges.

Mr. Pelletier testified that the police were providing the disclosure on the Crown's instructions, and he kept an exact copy of the disclosure in the Crown file. He did not keep a ledger to keep track of disclosure. Rather, when the police delivered materials to the defence, they copied Mr. Pelletier with a note indicating that this material was disclosed on a certain date. This tracking system was inadequate given the complexity of the prosecution and the volume of disclosure involved.

On October 18, 2000, Ms Hallett wrote to the trial coordinator and requested that the trial date be given priority. A jury date was set for May 28, 2001.

Ms Hallett was also the prosecutor in another Project Truth case, *R. v. Jacques Leduc*. On March 1, 2001, Justice James Chadwick stayed the proceedings in the Leduc case on the basis of wilful non-disclosure by the Crown. The Judge concluded that Ms Hallett had intentionally withheld the disclosure of police notes describing contacts Constable Dunlop had with the mother of an alleged victim. This decision had a significant impact on other Project Truth investigations and prosecutions, because Ms Hallett was removed from those cases. This led to a scramble to find new Crown attorneys to take over these files.

The case probably most affected by Ms Hallett's departure from Project Truth cases was *R. v. Father Charles MacDonald*. As the initial charges were now five years old, delay was a significant issue. A trial date had been set for May 28, 2001. It was critical that a new Crown be found as soon as possible.

On March 6, 2001, Mr. Stewart sent an e-mail to Assistant Crown Attorney Terrance Cooper about finding a replacement Crown for the Father MacDonald prosecution. Mr. Stewart testified that he knew the trial was approaching and that an experienced Crown was needed quickly. He suggested a number of people, including Lorne McConnery who ended up taking this on.

On March 30, Ms Hallett wrote to Mr. Stewart because she had received a videotape of C-2's statement and wanted to ensure it was disclosed and that another counsel was available to do that. She wrote that she would not be assuming any further disclosure responsibilities for the Father MacDonald case or any other Project Truth cases.

Ms Hallett did not meet with Mr. McConnery once he was assigned in order to give him the briefs. At this point, Ms Hallett still had the entire Father MacDonald file. She did not believe anyone from the Ministry of the Attorney General asked her to return files following the decision to remove her from the Project Truth prosecutions. I am of the view that Ms Hallett should have been required to turn over the Father MacDonald file to Mr. Stewart as soon as it was decided she would no longer continue with the case. Aside from ensuring a smoother transition, given the finding against Ms Hallett in the Leduc matter, she should not have remained in possession of any Project Truth files.

Mr. McConnery assumed carriage of the Father MacDonald prosecution in April 2001. He was advised by Mr. Stewart that Crowns Christine Bartlett-Hughes and Kevin Phillips would be available to assist him. Mr. Stewart testified that given the history of the case and the point the matter was at, they would not assign a single Crown. Two lawyers were assigned to have carriage of this case and a third one to assist.

When Mr. McConnery agreed to take on this assignment, he was still in Barrie. The trial date was set for May 28, 2001, and the Crown hoped to be able to accommodate that trial date. Mr. McConnery felt that this would be enough time to get ready for a complex sexual assault trial, but the Father MacDonald prosecution turned out to be a lot more complicated than he realized it would be. Because this matter had been going on for some time, Mr. McConnery was immediately concerned they would be facing an 11(b) application and thinks he may even have been advised that there would be one. Mr. McConnery thought it would be an uphill battle for the Crown on some, if not most, of the counts.

Near the end of April, the defence requested an adjournment of the trial on the basis of a scheduling conflict. Mr. Neville argued that a Crown mistake caused a case he was involved with in Perth to continue longer than expected and that the Crown should accept responsibility for the delay resulting from his unavailability.

Mr. Stewart advised Mr. McConnery that there would be an application by the defence for an adjournment and that the adjournment was related to another trial Mr. Neville was involved in. They discussed whether the Crown could maintain the position that it would be ready for trial in May. Having very limited knowledge of the scope of what he was getting involved in, Mr. McConnery's position was they would try to be ready for the May trial date. Mr. McConnery did not give any instruction about the position to be taken by the Crown with respect to requiring a waiver of section 11(b). He doesn't recall talking about a waiver. Mr. McConnery agreed that, in retrospect, by April 25, 2001, there was no realistic possibility that the Crown would be able to proceed on the assigned trial date the following month.

Mr. Phillips attended the adjournment hearing. He argued that the Crown was seeking an 11(b) waiver and would not oppose the adjournment requested by the defence if a waiver was given. The agent appearing on behalf of Mr. Neville advised that he was not in a position to provide such a waiver. The matter was adjourned to March 18, 2002, and the responsibility for the delay was to be decided by the trial judge. This was a ten-month adjournment. When he learned of this, Mr. McConnery was very concerned.

In the next couple of months, the Crown took steps to move the trial date forward. A number of letters were written to defence counsel to determine his availability for an expedited trial date. The Crown never received a response.

In April 2001, the decision was made to paginate and copy the Dunlop materials. Mr. McConnery testified that when he arrived in Ottawa he spent a lot of time with Mr. Stewart discussing this issue, and they determined that they should send the materials to a private photocopying firm to have multiple copies made.

According to Mr. McConnery, the decision in the Leduc case about wilful non-disclosure by the Crown influenced their approach to dealing with these materials. Mr. McConnery made the decision to give defence counsel everything in the nine boxes. He did not want to be in the position that the previous Crown had been in and was worried about missing something.

Mr. McConnery was concerned that piecemeal disclosure would result in something relevant being missed. The risk of this occurring was compounded in this case by the fact that there was no history or log of what had been previously disclosed. This was a major issue in this and other Project Truth prosecutions and is the subject of some of my recommendations.

The nine Dunlop boxes were delivered to Mr. Neville's office on August 15, 2001. There were over 10,000 pages of documents contained in those boxes. Mr. McConnery testified that he thought most of the material was irrelevant for the trial but relevant for the 11(b) issue. The decision to disclose all of the materials ensured that all Crown disclosure obligations had been met.

As mentioned, following the decision in *R. v. Leduc* and Ms Hallett's removal from Project Truth files, she retained the files in her possession to be transferred to the new Crown(s) when assigned. The transfer of the file in *R. v. MacDonald* from Ms Hallett to Mr. McConnery was delayed. Ms Hallett was making an inventory list of what she had to turn over to Mr. McConnery. There was also a delay of more than one month for Mr. McConnery to receive the Father MacDonald brief from the OPP.

On July 18, 2001, Mr. McConnery wrote a letter to Ms Hallett setting out which materials he had received and asking if there was further material forthcoming. Ms Hallett responded on July 27 that there were approximately four or

five more boxes containing preliminary inquiry transcripts, videotapes, the correspondence file, and casebooks. Ms Hallett acknowledged that the process of reviewing, copying, and creating an inventory delayed the handing over of remaining materials to Mr. McConnery.

On September 14, 2001, Mr. Phillips sent an e-mail to Ms Hallett asking her about the preliminary inquiry transcripts. She responded on September 25, telling Mr. Phillips that she had been sick but had the transcripts and hoped to get them to him. They had not been sent as of October 18, when he sent another e-mail inquiring as to the whereabouts of the transcripts. On November 1, he sent a third e-mail about the transcripts: “Please please please get back to me one way or the other with respect to the transcripts for Fr. MacDonald.”

The final delivery of materials, which included the correspondence file, took place on February 27, 2002. The trial was scheduled for March 18. Mr. McConnery agreed that the transition of the file was not ideal and that he would have expected to get the materials sooner. This delivery of material was Ms Hallett’s final involvement in the Father MacDonald prosecution.

This is another example illustrating why the Ministry must maintain possession and control of its files if there is a change in the Crown prosecuting the case. The delay in providing Mr. McConnery with documents relevant to the case was not acceptable. It took almost one year for the complete file to be turned over to the new Crown, with the last delivery being less than one month before the trial was set to begin. I find that the delay was inexcusable.

There was even more urgency in this case given the history of delays in this particular prosecution. In my opinion, the file should have been taken from Ms Hallett as soon as the decision was made that she would no longer continue with the Father MacDonald prosecution. As well, Ms Hallett had been accused of wilful non-disclosure in a high-profile case and, as a result, the charges were stayed and she was being investigated. In my opinion, the Ministry of the Attorney General should have a protocol in place for when a Crown counsel is accused of misconduct. Files should be removed from that person’s possession and, if requested, photocopies made.

On January 24, 2002, Mr. McConnery and Mr. Phillips met with Detective Constable Dupuis and Detective Inspector Hall. They discussed potential witnesses for the Father MacDonald trial. Mr. McConnery testified that this meeting was to address the issue of subpoenas.

On February 6, Mr. McConnery met with Detective Constable Dupuis, primarily about providing transcripts and other things to some of the trial witnesses. He also spoke to defence counsel about the defence position that certain of the Crown complaints should not proceed, in particular those of C-8, Robert Renshaw, Kevin Upper, and C-5. Mr. Neville also raised the issue of who

wrote notes found in one of the Dunlop boxes. The notes were identified as belonging to Sergeant Ron Lefebvre of the Cornwall Police Service. Mr. McConnery recalled that when the notes were identified, Mr. Neville's position was that they should have been disclosed years ago. Mr. McConnery agreed that they should have been disclosed at the time of the initial charges.

This again raises the issue of tracking disclosure. While he would have preferred to know with certainty what had been disclosed throughout the proceedings, Mr. McConnery testified that no tracking systems were in place. In my view, if the prosecution of charges is proceeding, it is incumbent on all police officers involved in the file to provide the investigator assembling the Crown brief with a copy of their notes. If they are not claiming privilege, police notes are always relevant and should be disclosed. A system should be established to address this issue within police services.

As part of the preparation for trial, in early 2002, the Crown began to meet with the complainants.

Just before the trial was set to begin on March 18, 2002, there were two changes in the judge and an adjournment. The first assigned judge, Justice Charbonneau, was in a conflict. Justice Charbonneau replaced with Justice Rutherford. This change would delay the start of the trial by approximately one week.

On March 4, Mr. McConnery was advised that the Father MacDonald trial was adjourned to April 29, 2002, and was now going to be heard by Justice Dan Chilcott, an out-of-region judge. Mr. McConnery was concerned that the trial had been delayed over a month with no notice or opportunity to address it in court. The delay affected not only Mr. McConnery's schedule but that of others as well, as sixty subpoenas had been issued and made returnable for March 18. Complainants were not taking news of the delay well.

It is clear from the documents and testimony that the Crown had concerns about the delay of the trial and the change in judge. Mr. McConnery had insufficient information on the reason for the change in judge and wondered if the change came about because of a request by Mr. Neville for this particular judge. Mr. McConnery communicated his concerns to Mr. Stewart who, in turn, sent an email message to Justice Cunningham, Regional Senior Justice. Mr. Stewart raised only the issue of the delay in his message. Justice Cunningham did, however, indicate that the change came about because of a shortage of judicial resources in the Eastern Region. This was a missed opportunity for the Crown to bring to the attention of the Regional Senior Justice its concern about the change of judge. There should be a mechanism whereby the Crown and defence counsel can bring issues before an administrative justice in an open and timely manner. On March 11, 2002, Mr. McConnery sent a letter to Mr. Neville enclosing notes

of Detective Inspector Smith and wrote that Detective Constable Fagan had retired and he was attempting to recover his original notes. On April 10, Mr. Phillips wrote a letter to Mr. Neville enclosing materials from Detective Constable Fagan. Mr. McConnery acknowledged that these notes ought to have been disclosed long before this date. He reiterated that it would have been of assistance to have some kind of summary or registry to track disclosure.

Mr. McConnery testified that early in 2002 it was clear there would be a stay application heard at the commencement of trial. He knew one of the arguments advanced would be timeliness of disclosure. According to Mr. McConnery, one has to look at the disclosure and determine whether or not it is significant. He acknowledged that the notes of Detective Inspector Smith and Detective Constable Fagan could have been critical. Mr. McConnery testified that frequently, Detective Inspectors' notes are not turned over because while Detective Inspectors direct the investigation, they do not interview or deal with witnesses. In my view, if the defence thinks certain material is important, the Crown should review the material in question and decide whether it should be disclosed. On March 12, 2002, Mr. McConnery interviewed C-8 to prepare him for trial. C-8's earlier testimony in the preliminary inquiry and his involvement in the prosecution of another accused had caused Mr. McConnery concern about the Crown decision to proceed on his charges. Mr. McConnery had significant concerns about the reasonable prospect of conviction and wanted to meet with C-8 to assess whether he was attempting to tell the truth. Mr. McConnery wanted him to understand that if they proceeded, C-8 was going to have a very difficult time.

Mr. McConnery talked to C-8 about his relationship with Constable Dunlop, about the videotapes seized from Ron Leroux's house in 1993, and about the allegation he made against Father MacDonald regarding the incident that allegedly occurred at his father's funeral. C-8 told the Crown that this incident never occurred. Mr. McConnery said that C-8 conveyed to him that his real concern was abuse by Mr. Leroux and that "Dunlop kept pushing the priest": "C-8 kept saying to me, that Dunlop kept saying 'More is better. More is better.' ... It was like a mantra." Mr. McConnery testified that he felt C-8 had destroyed his own credibility. He did not proceed with these charges. Mr. McConnery also made the decision to withdraw the counts relating to C-2. Mr. McConnery met with C-2 to advise him of his decision to drop the charges because he felt there was no reasonable prospect of conviction.

On or about March 26, 2002, the defence filed an application to have the proceedings stayed on the basis that there was an unreasonable delay in bringing the matter to trial, which violated Father MacDonald's right to a trial within a reasonable time under section 11(b) of the *Charter*. The stay application was heard over a number of days starting on April 29, 2002. During

his submissions, Mr. McConnery acknowledged that there was an exceptional amount of delay, seventy-three months, and that there had been no waiver of section 11(b) rights.

It was Mr. McConnery's belief that both Mr. Pelletier and Ms Hallett were very aware of the risk and exercised the best judgment they could in light of what was becoming an incredibly complex prosecution. He thought if the Court understood that and the reasons for the delay, this would offset somewhat the excessiveness of the delay. Mr. McConnery felt the most significant issue was the societal interest in hearing this allegation.

Mr. McConnery's position was that Constable Dunlop was somewhat of a renegade and that the Crown should not be held completely responsible for what he had done. The Crown called Mr. Dunlop as a witness on the stay application.

On May 13, 2002, Justice Chilcott granted the application for a stay of proceedings based on unreasonable delay. With respect to the Crown's decision to join the charges, Justice Chilcott held that the Crown should have proceeded with the first set of charges and set a trial date as soon as possible after Father MacDonald was committed to stand trial in October 1997.

He further found that although it may have seemed reasonable and desirable to try the first and second sets of charges together, "the reasonableness aspect should have been superseded by the fear of an application for the relief as provided in Section 11(b) of the Charter." Justice Chilcott also found that the Crown contributed to the delay by using C-2 as a complainant, appreciating the impact it would have on the pending May 1, 2000, trial date. Justice Chilcott found that the greatest contributor to the delay was Mr. Dunlop, and found that Mr. Dunlop was deceitful.

I find that had someone from the Ministry of the Attorney General been assigned to oversee Project Truth prosecutions from the outset and on a full-time basis, the Crown might have better appreciated Constable Dunlop's impact on Project Truth cases and as a result might have been able to take swifter and more decisive action to deal with the issue.

On June 5, 2002, Mr. McConnery wrote to Mr. Lindsay, the Director of the Crown Law Office—Criminal, about a possible appeal. Mr. McConnery did not see an obvious error in the decision. He was requesting a review regarding a possible appeal because of the community interest and the need for the community to have a trial in this matter. On June 18, 2002, John Pearson, the Director of Crown Operations, Western Region, wrote to Mr. Segal indicating that the Crown would not appeal Justice Chilcott's decision.

Father MacDonald was initially committed to stand trial on charges involving the original three complainants, David Silmser, John MacDonald, and C-3, on October 24, 1997. A number of events and decisions made by the Crowns involved

in this matter delayed the proceedings. One of the most important, if not crucial, decisions was to delay the trial to permit new charges to be joined to the original ones, as complainants came forward. That decision was first taken by Mr. Pelletier, who recognized that it was a calculated risk in favour of the Crown.

The decision to join all charges together was made by experienced trial lawyers, applying the law as they saw fit at the time. In hindsight, the option to proceed on separate indictments may have been preferable. However, knowing that it was a calculated risk and that the delay would become a live issue at trial, the Crown should have made the issue front and centre at every court appearance.

R. v. Jacques Leduc: *First Trial*

In or around mid-May 1998, OPP Detective Inspector Tim Smith advised Crown Attorney Robert Pelletier that complaints of a sexual nature had been made against local lawyer Jacques Leduc and that the OPP was intending to investigate. On May 22, Mr. Pelletier was updated about the investigation and it was requested that a Crown be assigned.

On June 18, Detective Inspector Smith left a message for Mr. Pelletier that Mr. Leduc should be arrested immediately for two reasons. First, it had become common knowledge that the police were investigating him. Second, Mr. Leduc was attempting to hire one of his alleged victims to work for him over the summer. As a result, Detective Inspector Smith did not think the police should wait until July 9, the date on which a number of suspects were to be charged, to lay charges against Mr. Leduc. Charges were laid against Mr. Leduc on June 22 with respect to the allegations of C-16 and C-17. A third complainant, C-22, came forward later.

On or around July 2, 1998, Crown Attorney Shelley Hallett was assigned to the Leduc case.

The charges against Mr. Leduc were amended on July 17, 1998. Ms Hallett provided the Project Truth officers with some comments about why she thought the wording of the charges should be changed. The police amended the charges following her suggestions.

In July 1998, Ms Hallett had a brief telephone conversation with C-16's civil counsel, Gerry Langlois. Mr. Langlois advised Ms Hallett about a piece of additional disclosure he had received from his client. She testified that she told him "very emphatically" to contact the Project Truth officers; she was not equipped to investigate any further allegations and this should be done by the police.

On August 5, Ms Hallett received a letter from Mr. Langlois, dated July 23, which referred to C-16 attending counselling and to the timing and frequency of alleged incidents. This letter was disclosed only upon the request of the defence at the beginning of the trial, in January 2001.

A judicial pre-trial was held in the *R. v. Leduc* matter on November 23, 1998. On November 25, the preliminary inquiry date was set for April 1999.

A third complainant against Mr. Leduc, C-22, was initially reluctant to provide a statement to the police or to become involved in the investigation or prosecution. Ms Hallett was aware of an attempt to interview C-22 in June 1998, at which time he did not want to provide a formal statement although he was not denying that something had happened. On July 15, she called Detective Inspector Pat Hall and requested that he make another attempt to interview C-22.

Another attempt was made to obtain a formal statement on July 30. Although C-22 conceded that sexual misconduct had occurred with Mr. Leduc, he was not comfortable coming forward and making a formal statement. As discussed in the institutional response of the OPP, Detective Constables Joe Dupuis and Steve Seguin told C-22 that he could be subpoenaed.

Ms Hallett attended with Detective Constables Dupuis and Seguin at C-22's residence on November 24, 1998. She told C-22 that she believed he had material evidence to provide in this case and requested that he accompany the officers to the police detachment to provide a statement. According to Ms Hallett, she spent less than fifteen minutes with the officers in speaking with C-22. She told the officers that she just wanted to see if he would agree to provide a videotaped interview. They did not discuss any substantive or material part of his allegations. C-22 agreed to attend the Long Sault Detachment, where he gave a videotaped statement.

Ms Hallett testified there was some delay in the preparation of the transcript of C-22's videotaped interview, which she received only on February 18, 1999, nearly four months after the interview was conducted. In my view, the delay in having the interview transcribed was too long. Transcripts must be produced in a timely manner.

On March 9, 1999, Ms Hallett wrote a letter to Detective Inspector Hall recommending that new charges be added to the information in respect of C-22's allegations. A new information was sworn on March 11. It included five counts of sexual assault, one count of sexual interference, one count of invitation to sexual touching, six counts of sexual exploitation, and three counts of obtaining sexual services for consideration, involving three separate victims.

Also on March 9, Ms Hallett advised defence counsel that a videotaped statement had been taken from C-22 on November 24, 1998, and that new charges were being laid against Mr. Leduc. The Crown attorney suggested that with respect to these new charges the matter be put over to April 8, 1999, the date of the preliminary inquiry, rather than making an interim appearance in court. She felt this would involve less publicity.

Ms Hallett further advised that she was sending a copy of the transcript of the interview separately and would provide a copy of the videotape as soon

as possible. At this point, she had not yet received a copy of the videotape. Mr. Edelson, Mr. Leduc's lawyer, responded to Ms Hallett's letter, expressing some concerns about the timeliness of disclosure.

Ms Hallett wrote a reply to Mr. Edelson on March 15, 1999. She pointed out that the judicial pre-trial took place on November 23 rather than November 25, that is, one day before C-22 provided a statement. Ms Hallett did not know on November 23 whether C-22 would provide a statement or be a witness in this matter.

Ms Hallett acknowledged that the issue of timeliness of disclosure was raised in 2004, when she was no longer working on the file. The events of this prosecution, ultimately led to an application to stay the charges for delay in the fall of 2004. In preparation for this application, Crown counsel Lidia Narozniak and Christine Tier prepared a memorandum about delays. They concluded that most of them were attributable to the Crown. Attached to this memorandum was a disclosure timeline and a list of the "most troubling aspects of the delayed disclosure." Ms Hallett had no input into these documents. I am of the view that Ms Hallett should have been consulted when putting this memorandum together to ensure that the new Crowns were aware of Ms Hallett's perspective about some of the delays and the circumstances surrounding them.

The first item listed on the memorandum is the November 24, 1998, videotaped statement of C-22, which was not disclosed until weeks before the preliminary inquiry. As discussed, Ms Hallett was not aware when the statement was taken whether charges would ensue. I am of the view that Ms Hallett should have advised defence counsel earlier about the existence of another complainant, despite the fact that she was not sure yet if charges would be laid, given that the preliminary inquiry was proceeding on April 8, 1999. Even if charges were never laid, I believe that the Crown would have had to disclose C-22's statement.

The second problem mentioned in the list is the disclosure of Volume 2 of the brief, which was in Ms Hallett's possession on August 19, 1998, but was not disclosed until March 15, 1999. This volume included C-22's July 30, 1998, statement, in which he acknowledged, for the first time, sexual activity with Mr. Leduc but refused to provide a formal statement. Ms Hallett acknowledged that this was a mistake.

The third problem related to Volume 5 of the brief, which was disclosed on November 14, 2000, but included statements taken the year before. Ms Hallett testified that OPP officers assembled Volume 5 and she disclosed it to the defence as soon as she received it. Although she can't recall why these documents were disclosed later, Ms Hallett testified that she did not delay in handing them over in any way.

The fourth item on the list is a second statement from C-17 taken on June 9, 1998, which included many additional substantive details regarding his allegations.

This was disclosed ten months later on April 12, 1999. Ms Hallett testified that she did not know why it was not disclosed earlier but acknowledged that it ought to have been.

The fifth item was the letter Ms Hallett received from C-16's civil counsel, Gerry Langlois, in the summer of 1998, which was disclosed at the start of trial. Ms Hallett testified that she put the letter in her correspondence file and therefore was not thinking about it for disclosure purposes.

Most items on this list relate to delays in disclosure that could have been prevented. As I have stated, there should be a disclosure log or register system implemented in all Crown offices to track when disclosure is received from the investigators, when it is disclosed to the accused or defence counsel, and what was disclosed. There was no appropriate system to manage and track disclosure in the Project Truth prosecutions.

On March 26, 1999, Mr. Leduc's lawyer, Michael Edelson, wrote a letter to Ms Hallett enclosing a notice of application for an adjournment to be heard on March 30. The defence was seeking an adjournment "pending full and complete disclosure from the Crown." He also advised her that her personal involvement in the investigation and continuing non-disclosure would "inevitably" lead to her being served with a subpoena to testify at the preliminary inquiry or trial.

Ms Hallett wrote a responding letter on March 29, enclosing a copy of the affidavit on which she noted some of her objections. In particular, she noted that some of the requests for additional disclosure pertained to material that had been in the defence's possession since July 1998, and this was the first time a request for follow-up disclosure had been made regarding this material. There were also a number of items listed by the defence that Ms Hallett did not think needed to be disclosed.

The application was heard on March 30, and Ms Hallett consented to the adjournment. She testified that she consented although she disagreed with many of the outstanding disclosure issues the defence submitted.

The preliminary inquiry in *R. v. Leduc* was held in November 1999. There were sixteen charges in the amended indictment, and the Judge committed Mr. Leduc to stand trial on thirteen of those charges. Ms Hallett prepared an indictment containing all of those counts. When she realized it would be a jury trial, she prepared a second indictment on January 15, 2001, including only the offences of sexual exploitation.

On January 15, 2001, the trial in *R. v. Leduc* commenced before Justice McKinnon.

On February 7, 2001, C-16's mother testified. While being cross-examined by defence counsel, she stated she had two contacts with Constable Perry Dunlop.

Ultimately the dates of these contacts were identified as May 8 and June 15, 1998. Furthermore, she testified that Detective Constable Dupuis was aware of the second contact because he was present in her home when she received the call. Ms Hallett testified that when she heard the evidence she was “astonished,” as it was the first time she had heard of any contacts between Constable Dunlop and witnesses in this matter.

Detective Constable Dupuis contacted Detective Inspector Hall to advise him of what had occurred during the cross-examination of C-16’s mother. As a result, Detective Inspector Hall came to court with copies of references from Constable Dunlop’s will-state and notes, as well as a copy of his notes of the July 1998 meeting with Constable Dunlop and Detective Inspector Smith. The entry in Detective Constable Dupuis’ notebook of the June 15, 1998 contact between Constable Dunlop and C-16’s mother was not located until a number of days later. Immediately Ms Hallett thought this was inadvertence, mistake, or oversight.

During the lunch break on February 7, there was a meeting between the Crown, police, and defence counsel. The materials that Detective Inspector Hall had brought to court were shared with defence counsel at this time.

Ms Hallett testified that when Detective Inspector Hall provided the documents of the meeting he and Detective Inspector Smith had with Constable Dunlop on July 23, 1998, to defence counsel, she said, “This is all news to me.” She was referring to the meeting between the officers and Constable Dunlop, which she was learning about for the first time. Ms Hallett had not seen any reference to that meeting in any notes, nor had she obtained Detective Constable Dupuis’ notes of the contact between Constable Dunlop and C-16’s mother.

Following the meeting with defence counsel, Ms Hallett met with the OPP officers. Detective Inspector Hall reminded her that she had reviewed the Dunlop material in March or April 2000. According to Detective Inspector Hall, Ms Hallett responded, “Yeah, yeah, I know.” As discussed, Detective Inspector Hall took this as an acknowledgment that what she had told defence counsel was inaccurate.

Ms Hallett said she remembers acknowledging she had seen the Constable Dunlop will-state. She never disputed the fact that she received and reviewed those materials. In fact, she had told the Court a year earlier that she was in possession of them and was reviewing them for the purpose of disclosure in the Father MacDonald case. As a result, she was aware of the contacts between Constable Dunlop and complainants in the Father MacDonald case, but not aware at the time of contacts between Constable Dunlop and complainants in the Leduc matter. Therefore, she did not perceive that these materials needed to be disclosed to counsel for Mr. Leduc.

She had received the Constable Dunlop will-state from a number of sources as of June 2000. She wrote in a July 4, 2000, letter to Detective Constable Dupuis

that she would review the statement and appendices to ensure that the copy provided by Constable Dunlop on June 27, 2000, was a duplicate of the copy provided on April 17, 2000. She did not believe that this required close scrutiny of the content. Ms Hallett testified that she had made it clear that she did not read the content of the will-state closely. This is in contrast to the Dunlop boxes, which Ms Hallett said she reviewed diligently to ensure that Detective Constable Don Genier came to the appropriate conclusions about disclosure. Ms Hallett did not review the Dunlop materials with the Leduc prosecution in mind.

On February 8, 2001, Detective Constable Seguin provided Ms Hallett with a copy of the letter she had sent Detective Constable Dupuis on July 4, 2000. She said the only thing Detective Constable Seguin told her when he handed her the letter was “Pat likes you but he’s a ‘cover your ass’ kind of guy.” That was the only explanation Ms Hallett received about why she was being given the letter.

Ms Hallett testified that Detective Inspector Hall never told her he believed this letter, from the Father Charles MacDonald prosecution, should be disclosed to the Leduc defence.

As I discuss, Ms Hallett’s non-disclosure of this letter was later the basis for a stay of proceedings granted in the Leduc matter, which was overturned by the Ontario Court of Appeal. The Court of Appeal found that the Crown “had no reason” to disclose the letter. The disclosure guidelines for Crown attorneys in force at the time provided that Crowns generally need not disclose any internal Crown counsel correspondence.

On February 12, 2001, counsel for Mr. Leduc, Steven Skurka and Phillip Campbell, wrote a letter to Ms Hallett saying they were concerned that there had been wilful non-disclosure by the police. They requested statements from the officers and other documentation, including OPP and Cornwall Police Service records, and memoranda and correspondence related to Constable Dunlop’s contact with C-16’s mother. The defence made further disclosure requests on February 14 and 15.

On February 14, 2001, Mr. Skurka advised the Court that he would be bringing a motion to stay the proceedings pursuant to section 24(1) of the *Charter*.³⁷ The motion was to be based on the non-disclosure by Detective Constable Dupuis and other senior ranking officers. Ms Hallett responded by stating on the record that she was also surprised by the contact between Constable Dunlop and C16’s mother.

37. This section provides, “Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.”

After the stay application was filed, Ms Hallett discussed the response to the stay application with Detective Inspector Hall. She also discussed the stay application with Detective Constable Dupuis, who was quite upset about it.

Ms Hallett testified that she believed there had been no intentional failure to disclose the contacts between Constable Dunlop and witnesses in this matter.

Ms Hallett testified that she told the officers that the Crown's strategy was to argue inadvertent failure to disclose. She felt the oversight could be proven to the Court by calling the officers and, if necessary, C-16's mother.

The stay application began on February 19, 2001. The first witness called by the defence was Mr. Nadeau. At the outset of his evidence, Mr. Nadeau made a statement to the Court stating his belief that Justice McKinnon was in a conflict of interest because he had previously represented Cornwall Chief of Police Claude Shaver. Justice McKinnon determined that he should not hear the application for the stay of proceedings and arranged for Justice James Chadwick to hear the application. The stay application continued on February 21 before Justice Chadwick.

Ms Hallett testified that when it was first announced that there would be a stay application brought based on the failure of the police to disclose, the Crown needed the notes of Detective Inspector Smith, who was retired. They received a will-state from Detective Inspector Smith dated February 9, 2001, about the meeting with Constable Dunlop in July 1998. Ms Hallett met Detective Inspector Smith for the first time on February 19, 2001. She and Detective Inspectors Smith and Hall discussed the case and went to dinner together that evening. Ms Hallett testified that the July 4, 2000, letter was not discussed.

According to Ms Hallett, on February 20, Detective Inspector Smith said the officers wanted to speak with defence counsel about what they would be asked during their testimony on the stay application. Ms Hallett had never heard of officers wanting to meet with defence counsel.

During the meeting the officers had with defence counsel Detective Inspector Hall agreed to provide defence counsel with a copy of the July 4 letter.

Following the meeting, Detective Constable Seguin called Ms Hallett and asked if she had the July 4, 2000, letter. She believed he said the officers could not find their copy. Ms Hallett testified that she did not know what he wanted the letter for, but she assumed that Detective Inspector Hall wanted to keep his files intact. She told Detective Constable Seguin that he was welcome to get the letter from her and make a copy.

Detective Constable Dupuis testified that Ms Hallett was not advised at this point that the officers intended to give the letter to defence counsel. He thought she already knew that was why they were getting her copy of the letter, as he assumed Detective Inspector Hall had so advised her. Ms Hallett testified that

neither Detective Inspector Hall nor Smith told her that they were intending to disclose a document to defence counsel.

Detective Inspector Hall testified that the primary reason he provided the document to defence counsel was because he was going to be questioned under oath the next morning and was not going to lie. He thought handing the document over to defence counsel directly without vetting it through her was the appropriate thing to do because he “knew” she had lied to defence counsel on February 7, 2001.

Detective Inspector Hall gave his evidence on the stay application on February 21 and 22, 2001. During cross-examination, Ms Hallett got him to agree that the Crown makes the disclosure to the defence and that the police provide the material for the disclosure. She also asked him some questions about the Dunlop material and its connection to the Leduc matter; he confirmed there was no connection. According to Ms Hallett, the intention in this line of questioning was to demonstrate that Constable Dunlop never identified Mr. Leduc as a perpetrator of sexual abuse in Cornwall.

Ms Hallett also asked Detective Inspector Hall some questions about the June 15, 1998, note in Detective Constable Dupuis’ notebook. Detective Inspector Hall acknowledged that the note was not provided to the Crown as part of the brief in this case, saying that it was “just simply overlooked by Constable Dupuis while preparing the Brief in the Leduc matter.” Ms Hallett then asked Detective Inspector Hall, “Now are you aware of any other piece of evidence or note or memo book entry that connects Perry to any other Crown witness in this case?”

Detective Inspector Hall responded that he was not. Ms Hallett testified that she was trying to demonstrate how limited the Constable Dunlop contacts were with witnesses in this case. She also asked Detective Inspector Hall direct questions about whether the Project Truth officers conspired to withhold this note from the defence. The purpose of these questions was to establish that the failure to include the information in the brief was inadvertent and not a wilful or intentional failure to disclose.

Detective Constable Dupuis was called to the witness stand after Detective Inspector Hall. Ms Hallett asked him similar questions about his notebook entry and why it was left out of the Crown brief. Ms Hallett acknowledged that both Detective Inspector Hall and Detective Constable Dupuis testified that the Crown had not intentionally withheld material disclosure from the defence. Detective Constable Dupuis’ testimony revealed that the police had provided defence counsel with the July 4, 2000, letter from Ms Hallett to Detective Constable Dupuis.

Ms Hallett testified there was a lunch recess, following which Mr. Campbell asked to recall Detective Inspector Hall.

During his testimony, Detective Inspector Hall provided specific information about Detective Constable Seguin giving a copy of the July 4 letter to Ms Hallett on February 8, 2001.

Ms Hallett testified that she was “shocked” that this evidence was being led. She didn’t understand the defence’s reason for trying to introduce this letter at this point.

On February 26, 2001, the Crown and defence made final submissions on the stay application. According to Ms Hallett, in the course of final submissions by the defence, it became clear that the defence strategy had changed. According to her, the allegation of wilful non-disclosure by the police was now an allegation of wilful non-disclosure by the Crown.

On March 1, 2001, Justice Chadwick granted the stay application, finding that Crown Attorney Hallett had wilfully failed to disclose material.

According to Ms Hallett, she completed the Crown appeal checklist and prepared a synopsis of what happened in *R. v. Leduc* and a list of proposed grounds of appeal. Mr. Stewart approved the Crown appeal request. He felt strongly that an appeal was necessary in this case. The panel that evaluated the merits of the appeal in this case consisted of John Pearson, Lidia Narozniak, and Louise DuPont. It was a unanimous decision that an appeal should be filed. A notice of appeal was served on Mr. Leduc on March 28, 2001, and Mr. Pearson was assigned to handle the appeal.

On April 3, 2001, Mr. Stewart received an e-mail from Detective Inspector Hall which discussed issues related to the disclosure of the Dunlop material. Detective Inspector Hall made some comments about Ms Hallett, which Mr. Stewart felt were quite serious. Mr. Stewart testified that this e-mail was not something he expected or requested from Detective Inspector Hall. He forwarded the e-mail to John McMahon, Director of Crown Operations, Toronto Region, and Mr. Pearson a few days after receiving it because they were involved in the appeal.

Mr. Stewart drafted a response outlining some of his concerns about the allegations in Detective Inspector Hall’s e-mail. Mr. Stewart never sent this draft response to Detective Inspector Hall because he was concerned that it would appear that he was attempting to persuade Detective Inspector Hall to change his mind about what he said.

Mr. Stewart forwarded his draft to Murray Segal, Assistant Deputy Attorney General, Criminal Law Division. Mr. Stewart testified that there was no doubt what he was going to do with this e-mail because both Detective Inspector Hall and Ms Hallett were senior people, it was a serious allegation of misconduct by the Crown, and Justice Chadwick’s ruling was on that very point.

Mr. McMahon forwarded the April 3 e-mail from Detective Inspector Hall to Mr. Segal on April 9, 2001. After receiving the e-mail, Mr. Segal reflected on it and sought outside legal advice. Mr. Segal testified that he made the decision

to refer the matter to an outside police force for such action as they deemed appropriate, which could include conducting an investigation. Mr. Segal contacted the York Regional Police and gave them a copy of the e-mail from Detective Inspector Hall. He advised Ms Hallett that he had given the e-mail to the York Regional Police and that she would be provided with counsel of her choice during any investigation that might be conducted.

This was the first that Ms Hallett knew of Detective Inspector Hall's e-mail. She prepared a document in response to Detective Inspector Hall's e-mail.

On July 24, 2003, the Ontario Court of Appeal overturned Justice Chadwick's decision. The Court found that the "Crown misconduct on which the stay was based is not supported by the evidence."

Detective Inspector Hall was wrong to give the July 4, 2000, memo to defence counsel without discussing the matter with Crown Hallett. I recommended that there should be a protocol in place within police forces with respect to how to deal with disagreements between police officers and Crown counsel about disclosure. In this case, Detective Inspector Hall should have advised his supervisor of his concerns. His supervisor could then have discussed these concerns with Ms Hallett's superiors in the Ministry of the Attorney General.

Although Ms Hallett was responsible for some delays in disclosure and the preparation of Crown briefs, I believe she is a dedicated and competent professional whose compassion and expertise in dealing with alleged victims of current and historical sexual abuse made her an asset to the Project Truth team.

R. v. Jacques Leduc Retrial

In the fall of 2003, John Pearson asked Lidia Narozniak if she would be interested in prosecuting the retrial of Jacques Leduc, and she agreed to do so pending the Supreme Court of Canada's decision on the appeal. Leave to appeal to the Supreme Court was denied on January 12, 2004, and the trial in *R. v. Leduc* proceeded again.

Ms Narozniak testified that the first hurdle she faced in the Leduc matter was the issue of delay and section 11(b) of the *Charter*. She felt the Crown had been tardy in some of its disclosure obligations, which caused some delay in the case. Even excluding the Dunlop disclosure issues, there was significant delay in Crown disclosure, which could have compromised the case.

On February 19, 2004, Ms Narozniak made her first court appearance on the Leduc matter. The case was scheduled to proceed on May 10. Defence counsel, Marie Henein, made submissions to the Court about the need for an adjournment of the trial date.

Ms Narozniak did not object to defence counsel's submission about the need for an adjournment, although her position was that she would be ready to proceed

on May 10. I am of the view that it would have been appropriate for Ms Narozniak to state for the record that the Crown was prepared to proceed on the set date. The Crown should be seen as being interested in matters proceeding to trial as quickly as possible. In addition, it is important that the position of each party is made clear at the time of the adjournment to ensure that any judge reviewing the conduct of the trial in the future can properly assess the situation.

The trial was scheduled to begin in October 2004.

On May 19, Ms Hallett sent a memo to Ms Narozniak and Christine Tier with four boxes of materials on the Leduc matter. She wrote that she believed the materials had been disclosed to the defence. On May 22, Ms Hallett sent an e-mail to Ms Narozniak saying that further boxes were being provided to her and that she would then have all of the material.

This matter was to commence on May 10, but it was not until May 19 that Ms Hallett completed the transfer of all relevant materials to Ms Narozniak. I fail to understand why Ms Hallett was still in the possession of those boxes three years after the end of her involvement in the file. The Ministry of the Attorney General should have arranged to retrieve that file from Ms Hallett. This is especially problematic given that disclosure was a difficulty in many of the Project Truth prosecutions. I have previously commented that prosecution files should remain in the possession of the Ministry of the Attorney General. Crown counsel should not be permitted to retain possession or control of any files when they are no longer involved with the prosecution. I appreciate that Ms Hallett had concerns as a result of the allegations made against her in the Leduc matter and the resulting investigation by the York Regional Police. In my view, this is a further reason why Ms Hallett should *not* have retained the file.

On May 12, 2004, Ms Narozniak attended defence counsel's office and they did a document-by-document comparison of the Dunlop materials to ensure everybody was working from the same materials. They discovered that there were some documents missing.

Defence counsel attended CPS to review the boxes on June 21, following which they requested that certain original documents be brought to court.

Ms Narozniak testified that at the end of her review of the Dunlop material she was not satisfied that he had fully disclosed all of his information or contacts.

It is unclear to me why so much emphasis was placed on the Perry Dunlop materials and concerns that he did not disclose everything. Ms Narozniak was not confident that the Crown and the defence were working from the same materials. This appears to me as being a problem resulting from not having a tracking system of what was disclosed to the defence. Those nine boxes of materials were within the control of the investigators and the prosecution and

yet they had not been copied and disclosed to the defence. In my view, this was not a problem caused by Mr. Dunlop but arose out of problems with the Crown's disclosure.

One of the pre-trial motions brought by the defence in this case was a disclosure motion, which was heard over several days in August 2004. Ms Narozniak explained that the purpose of this motion was to explore whether there was any undisclosed material missing or in Mr. Dunlop's possession or in the Crown's possession. The motion would also examine the potential contact that Mr. Dunlop might have had with the victims in the case.

Mr. Dunlop was living in British Columbia at the time and was summoned to attend. Prior to the motion, Ms Narozniak had a few phone conversations with him about his attendance. She explained the motion to him, outlined the issues, and identified areas of concern. Ms Narozniak also sent him the transcripts from his testimony in the Father MacDonald case.

According to Ms Narozniak, she spoke to Mr. Dunlop about his notes and the need for the originals, and explained which notebooks she was interested in. She informed him that the focus of her questioning would be on his contact with the complainants and witnesses in the Leduc case.

On August 16, 2004, Mr. Dunlop was called to the stand to testify. Mr. Dunlop was cross-examined by defence counsel for three days. On the second day of the disclosure motion, Mr. Dunlop requested legal counsel. Ms Narozniak supported that request and asked the local Crown's office to assist her in connecting with a legal aid lawyer or duty counsel in the building. Duty counsel was contacted and Mr. Dunlop spoke to him and was prepared to proceed with his testimony. On the third day of testimony, a statement prepared by Mr. Dunlop was put in as evidence, in which he stated he felt he was being treated unfairly, had been blindsided, and was subpoenaed under false pretences. In his statement, he said he thought he had been called solely to address the contact he had with C-16's mother. He felt that the Crown had acted unfairly and provided him no guidance or assistance.

In the fall of 2004, the defence brought an application for a stay of proceedings based on delay. Ms Narozniak was not surprised there was a section 11(b) *Charter* application. Her position, however, was that the best interests of the administration of justice were served by having Mr. Leduc's trial proceed on the merits and this remained her position throughout. Part of her task on the section 11(b) application was to explain to the Court that regardless of the prejudice to Mr. Leduc, there would be a greater prejudice in having the matter stayed.

The argument put forward by the Crown was that the defence was barred from arguing section 11(b) because it had not been raised at the first trial.

In addition to the “uphill” battle the Crown was facing in the section 11(b) application, Ms Narozniak also had concerns about the merits of the case itself and, in particular, concerns about the credibility and reliability of the complainants. With respect to C-16, she felt the Crown could not obtain a conviction at trial and she would have considered withdrawing the charges in respect of his allegations.

On October 18, 2004, Justice Plantana granted the defendant’s application to stay the proceedings on the basis that he had not been tried within a reasonable time, contrary to his rights under section 11(b) of the *Charter*. The written judgment was provided on November 10.

R. v. Malcolm MacDonald: *Sexual Abuse*

Three people reported allegations of sexual abuse against Malcolm MacDonald. Crown Shelley Hallett was assigned to review the investigation into Mr. MacDonald. Ms Hallett was provided with a Crown brief on July 7, 1998, in respect of the allegations of two of the complainants.

Ms Hallett provided Detective Inspector Pat Hall with her opinion in this matter on March 9, 1999. She recommended that charges of gross indecency and indecent assault be laid and provided draft wording for the charges. On March 11, Mr. MacDonald was charged with two counts of indecent assault and one count of gross indecency.

It took eight months for Ms Hallett to complete an opinion in this case. This delay is even more poignant when one considers that the first complainant provided his statement to the OPP in September 1997. Delays can have a significant and negative impact on victims and on the accused and should be minimized to the extent possible. In my view, the Crown should give priority to a brief with respect to allegations reported almost a year earlier. This is a further example of the importance of assigning a dedicated Crown to the investigations. This Crown could have provided assistance to the investigators in a more timely fashion.

Following her review of the Malcolm MacDonald brief, Ms Hallett had some concerns and wanted the police to investigate further.

On June 21, 1999, she requested that Detective Constable Seguin locate court documents that could narrow down the offence period and possibly confirm that Mr. MacDonald was in a solicitor–client relationship with the two complainants. Detective Constable Seguin wrote to Ms Hallett on July 22 and explained the steps taken to locate the materials.

A pre-trial was held in the Malcolm MacDonald matter on June 24, 1999. The preliminary inquiry was set for January 17, 2000. Mr. MacDonald died on December 23, 1999. Charges against him were withdrawn by the Crown.

Clergy and Conspiracy Briefs

On March 19, 1999, Detective Inspector Pat Hall met with James Stewart, Director of Crown Operations, Eastern Region, and Robert Pelletier about the assignment of Crowns for a number of Project Truth cases, including those involving allegations against various clergy members and the conspiracy to obstruct justice. Mr. Stewart requested that Detective Inspector Hall go to Toronto and explain the investigations to the Director of the Special Investigations Unit.

In June 1999, Shelley Hallett met with Detective Inspector Hall and he asked that she take on further work to help with the Project Truth cases. At this point, Ms Hallett was already involved in four Project Truth prosecutions. She was not aware of the nature of the new work or the form it would take, but she agreed to take it on.

Ms Hallett received briefs on Father Bernard Cameron, Father Gary Ostler, Monsignor Donald McDougald, and Bishop Eugène LaRocque on September 22, 1999. She received the Father Kevin Maloney brief in January 2000. Ms Hallett was asked to provide an opinion as to whether there were reasonable and probable grounds to lay a charge and whether there was a reasonable prospect of conviction. Although the briefs were separate and distinct, Ron Leroux was a common complainant in four of the five briefs and the allegations had come to the attention of Project Truth through the investigation by Constable Perry Dunlop.

Ms Hallett testified that the Project Truth officers informed her they had concerns about Mr. Leroux's credibility.

Concerns were raised repeatedly regarding the length of time it was taking Ms Hallett to review these briefs and provide her opinions. Ms Hallett never finished her review of the briefs, and they were transferred to Lorne McConnery after the stay of proceedings in *R. v. Leduc* on March 1, 2001. Following this decision, Ms Hallett had no further involvement in Project Truth matters. Prior to this, four of the clergy briefs were in Ms Hallett's possession for seventeen months and the brief on Father Maloney was in her possession for approximately fourteen months, without an opinion being rendered.

Ms Hallett testified that at the time she was preoccupied with the *R. v. Leduc* matter. She was also getting ready for the Malcolm MacDonald preliminary inquiry in January 2000, which did not proceed because of his death. In addition, Ms Hallett was getting up to speed with the Father Charles MacDonald prosecution.

On January 6, 2000, Ms Hallett told Detective Inspector Hall that she would try to have a legal opinion on the five clergy briefs by the end of January. On May 25, Detective Inspector Hall left Ms Hallett a message asking about the five outstanding legal opinions. Ms Hallett explained that by this time

there were a number of developments regarding Constable Dunlop. In particular, she had undertaken to review the nine boxes of material he provided, which was a priority.

Detective Inspector Hall called Ms Hallett on June 27, and she told him she had not reviewed the other briefs yet and was waiting for the conspiracy brief to be completed. Ms Hallett received the nine volumes of the conspiracy brief on July 20, 2000. There were over 7,000 pages between the six briefs, and she had not realized it would be so large. Ms Hallett wanted to review the matter carefully as she knew the alleged conspiracy was one of the fundamental concerns in Cornwall.

Ms Hallett testified that she wished the conspiracy brief had come to her before any of the other Project Truth briefs, as it would have assisted her in understanding more about Constable Dunlop's investigations and the issues involving him before beginning the other prosecutions.

On December 13, 2000, Detective Superintendent Chris Lewis spoke with Mr. Stewart. He expressed his "concern that no legal opinions received from Crown Law yet." On January 15, 2001, Detective Superintendent Lewis called Murray Segal, Assistant Deputy Attorney General, Criminal Law Division, and expressed his concerns about the delay in the legal opinions. Detective Superintendent Lewis spoke to Mr. Segal again on February 6, 2001 and expressed his concerns about the delay with the briefs. He said that the OPP was under pressure from the media.

Although I accept that Ms Hallett was busy with the Leduc trial in late 2000 and early 2001, and therefore was unable to review the briefs at that time, it appears that she would have been too busy to do so regardless of the Leduc trial. In my opinion, she should have asked for assistance in managing her workload. In addition, senior management within the Ministry of the Attorney General should have been involved in managing Ms Hallett's workload.

I am of the view that although they had not received a request from Ms Hallett for assistance, both Mr. Stewart and Mr. Segal were aware of her workload and both were aware of the public pressure on Project Truth officers to finalize their investigations. They should have reassigned the briefs. In my opinion, this is an example of problems resulting from a failure to allocate adequate and appropriate resources to the prosecution of criminal charges from the Project Truth investigations.

As discussed, following the stay in *R. v. Leduc*, Ms Hallett was no longer involved in Project Truth cases. As a result, it became necessary to find a Crown to replace her in providing an opinion on these briefs.

On May 22, 2001, Detective Superintendent Jim Miller, Director of the OPP's Criminal Investigations Branch, sent an e-mail to Mr. Segal expressing concerns about the time frames for the legal opinions. Detective Superintendent Miller had received an e-mail from Detective Inspector Hall setting out his concerns about the

delay in receiving the Crown opinions. Mr. Segal responded the next day, advising that Mr. McConnery would be reviewing the material on a priority basis.

On May 23, 2001, Mr. McConnery received a call from Mr. Stewart and was advised that he would be reviewing a conspiracy brief and some other briefs regarding sexual assault allegations that had been assigned to Ms Hallett and to do so “with some priority.” Mr. McConnery was told that the matters had been outstanding for a “fair amount of time.”

Around the end of May 2001, Mr. Stewart asked Ms Hallett to send the conspiracy brief to Mr. McConnery for his review. By May 28, several of the briefs were already at Mr. Stewart’s office, but Ms Hallett still had a copy of the conspiracy brief.

On June 13, Mr. McConnery met with Detective Inspector Hall and Detective Constable Joe Dupuis and received their master copy of Project Truth’s conspiracy brief. Mr. McConnery recalled that the officers were not happy to give him their copy because they thought he should receive Ms Hallett’s copy of the brief. Mr. McConnery agreed to photocopy the brief and return the OPP’s copy to them. Mr. McConnery received the conspiracy brief from Ms Hallett on June 25.

This is yet another example of delays created by the failure to transfer a brief in a timely fashion. The stay of proceedings in the Leduc matter had been granted almost four months previously and a new Crown assigned. Crown briefs and files should be returned to someone within the Ministry as soon as a Crown is no longer involved in a case.

Mr. McConnery’s review of the briefs spanned from June into August. Mr. McConnery flagged Mr. Leroux’s credibility as an issue from the moment he reviewed the videotape and transcript of his interview by the OPP. For all the briefs Mr. McConnery reviewed, the officers did not have reasonable and probable grounds.

On July 5, 2001, Mr. McConnery met with Mr. Segal, who made several suggestions regarding Mr. McConnery’s review of the briefs. According to Mr. Segal, the decision to lay charges rests with the police. Mr. Segal thought it was important in these cases to know where the police stood before Mr. McConnery expressed an opinion. It was clear to Mr. McConnery that he was conducting reasonable and probable grounds reviews and part of his responsibility was to ask the police whether they felt they had reasonable and probable grounds.

In Project Truth, Crown attorneys were being asked to provide opinions to the OPP on whether there were reasonable and probable grounds to lay charges. This is not the usual way criminal charges are laid. The police are responsible for determining whether charges should be laid. However, in the Project Truth operational plan it was contemplated that all briefs would be submitted to the Crown for review and recommendations about laying charges.

Mr. McConnery had a meeting with Detective Inspector Hall on July 10, 2001. He made a number of requests for information and material, and followed up on Mr. Segal’s request to obtain the police views on reasonable and probable grounds.

Mr. McConnery asked Detective Inspector Hall about his impression with respect to reasonable and probable grounds on each of these briefs. According to Mr. McConnery's notes, with respect to the matters based substantially on the allegations of Mr. Leroux, Detective Inspector Hall said something to the effect of, "I would not put my hand on the Bible re: anything Leroux says, or ask any of my men to do it." It was clear to Mr. McConnery that Detective Inspector Hall did not have subjective reasonable and probable grounds on any allegation based solely on Mr. Leroux's statements.

Mr. McConnery was clear in his testimony that he was not looking at potential allegations of conspiracy with respect to a clan or ring of pedophiles, or whether people were conspiring to sexually abuse children. Rather, he was looking at whether there was evidence to support an allegation of a very particular criminal conspiracy among the Cornwall police, Crown Attorney Murray MacDonald, Bishop LaRocque, two or more local lawyers, and Ron Wilson, a funeral director, the result of which was the agreement between David Silmsen and the Diocese of Alexandria-Cornwall. The issue for Mr. McConnery was whether there was evidence to support charges of that conspiracy among those ten or twelve people.

Mr. McConnery completed his opinion letter, addressed to Detective Inspector Hall, on August 15. In the letter, he concluded: "Upon a review of all of the above-noted material, I find that your concerns and conclusions about the lack of reasonable and probable grounds are appropriate and justified. All of the allegations of the complainants Leroux and [C-15] have been carefully studied in the context in which those allegations were made, and your opinion as to the credibility of the allegations is reasonable and well-founded in my view."

On August 22, 2001, the OPP issued a press release announcing the conclusion of Project Truth. The release stated, "The OPP found no evidence that a pedophile ring operated in the city. There is nothing to indicate individuals operated in concert with each other to commit offences."

Mr. McConnery testified that he was never asked for an opinion about a pedophile ring, had not expressed an opinion on that allegation, and did not think it would have been appropriate to provide an opinion about that. He was not happy with the press release. This is understandable. Mr. McConnery's opinion was based on Mr. Leroux's conspiracy theory, and not on a broad investigation of a pedophile ring.

R. v. Jean Luc Leblanc, 2001

After his conviction in 1986, discussed previously, Jean Luc Leblanc came to the attention of the police again in December 1998. The consequent Project Truth investigation resulted in Mr. Leblanc being charged with fifty-one counts of sexually abusing young people. He was initially charged and arrested on

January 5, 1999, and subsequently charged and arrested on further counts on March 11, 1999, July 27, 1999, and April 7, 2000.

The prosecution of Mr. Leblanc was assigned to the Brockville Crown Attorney's Office. On March 26, 2001, Mr. Leblanc pleaded guilty to six counts. He pleaded guilty to twelve counts on June 7, and the remaining thirty-three counts were withdrawn by the Crown. Crown Curt Flanagan told the Court that the counts withdrawn were duplicates and covered the same factual allegations that had been pleaded to.

On April 22, Justice Chilcott found that Mr. Leblanc was a long-term offender and sentenced him to ten years incarceration, with a reduction of eighteen months for time already spent in custody. In addition, he was sentenced to a ten-year long-term supervision order.

External Pressures on Project Truth Prosecutions

External pressures were also experienced by Crown prosecutors and employees of the Ministry of the Attorney General during the prosecution of Project Truth cases. Specific pressures experienced by Crown attorneys included the loss of the binders delivered by Constable Dunlop to the Ministry, comments by MPP Garry Guzzo and others in the legislature and media, and the establishment of websites dedicated to Project Truth investigations and prosecutions.

As discussed, on April 8, 1997, Constable Dunlop hand-delivered a cover letter, a videotape containing the *Fifth Estate* segment featuring him, and four binders of information (the "Government Brief") to the following government agencies in Toronto: (1) the Solicitor General and Minister of Correctional Services: The binders and the videotape were refused by this office and only the letter was accepted, by John Periversoff; (2) the Ontario Civilian Commission on Police Services: Clerk Assistant C. Labielski accepted the letter, the videotape, and the binders; and (3) the Ministry of the Attorney General: Appeal Records and Support Assistant Michael Austin accepted the letter, the videotape, and the binders.

The covering letter that accompanied the Government Brief set out Constable Dunlop's concerns about a group of pedophiles operating in the Cornwall area and about a conspiracy to cover up allegations of sexual abuse. The letter noted the accompanying materials.

As previously stated, the Solicitor General was the only one of the three government offices to forward the material received from Constable Dunlop to the OPP. Because the Solicitor General had accepted only the letter and not the binders containing the Government Brief, only the letter was passed on.

I am prepared to accept that the failure of the Ministry of the Attorney General to locate the materials delivered by Constable Dunlop and to forward them to the appropriate police service for investigation had only limited consequence

to the Project Truth investigation. It did, however, cause a number of people to question the actions of public institutions and their motivation. Many of these individuals, such as Mr. Guzzo, made those concerns public, and that in turn caused members of the Cornwall community to have those same doubts.

The loss of the binders by the Ministry of the Attorney General was not acceptable. I heard evidence that the Ministry now has a computerized and a manual log to track the service of such documents. I recommend that the Ministry review its tracking system and confirm that documents are logged when they are received and also when they are reviewed. If the documents disclose matters requiring an investigation, they should be forwarded to the appropriate police service and copied to a designated person within the Ministry.

The failure of Ministry officials to acknowledge the loss of the Dunlop binders in a public and timely fashion may have fuelled public concerns about institutional incompetence and cover-ups.

During Project Truth, several websites were established that contained information about the Project Truth investigations and prosecutions, including victim statements and media articles. These websites had an impact on the investigation and prosecution of some cases. The material they published raised concerns about the accused receiving a fair trial and had the potential to discourage further victims from coming forward for fear that their statements or other personal information might be posted on the Internet.

The Provision of Services to Victims

Many of the prosecutions discussed would have benefited from having early involvement of victim/witness assistance resources. The Victim/Witness Assistance Program (VWAP) operated by the Ministry of the Attorney General was not in place in Cornwall during most of Project Truth, although some services were provided by the Ottawa VWAP office. VWAP was not implemented in Cornwall until 2001.

VWAP provides a range of services to victims of crime who are involved with the criminal justice system. Cosette Chafe, who was the Manager of VWAP in Ottawa, participated in the development of a protocol for the implementation of a Victim/Witness Assistance Program in multi-victim, multi-perpetrator cases in around 1992–1993. The purpose of the protocol was to establish additional guidelines for services in such cases.

The VWAP policies and procedure manual provides that if a project is designated as a “special prosecution,” there may be additional resources and funds allocated to it. Special prosecutions are described in the manual: “Special prosecutions are normally designated as such because they involve several accused

persons charged with serious offences against multiple victims. They are often historical in nature, often involve sexual offences and often involve crimes committed against children Special prosecutions typically require a substantial commitment of time, resources and expertise in order to respond effectively to the special needs of the victims and the special circumstances of the prosecutions. They also require a high level of collaboration and coordination among the Crowns, police officers and Program staff.”

Project Truth was not designated a special prosecution. I am of the view, however, that Project Truth quickly fell within the definition of a special prosecution as identified in the VWAP policies and procedures manual. Resources should have been deployed to Cornwall to assist investigators and prosecutors in dealing with the rapid and increasing number of victims as early as 1997.

In 1999, Dennis Lessard, the Regional Victim Services Consultant with the Ministry of the Solicitor General, advised Cosette Chafe of the need for VWAP services in Cornwall. Although no resources were available initially in the fiscal year to provide an office in Cornwall, Ms Chafe agreed to provide some limited services to specific prosecutions.

By July 2000, funds had been allocated for the provision of VWAP services in Project Truth prosecutions, and Louise Lamoureux was brought on in August 2000 to provide these services.

When the Victim/Witness Assistance Program became involved, most of the preliminary inquiries in Project Truth prosecutions had been completed. Ms Chafe believed many of the victims declined services because they did not feel they needed them. She thought the Program’s involvement in Project Truth prosecutions would have been different if services had been offered early in the process. Detective Constable Seguin testified that a Victim/Witness Assistance Program would have been a useful resource as there was no one to maintain contact with victims.

I heard evidence from many witnesses regarding issues surrounding VWAP. It is clear that services to victims in the Project Truth prosecutions were inadequate and not offered in a timely fashion. I was surprised to hear of the delay in implementing VWAP services in Cornwall given the context of the investigations and prosecutions.

I have also heard evidence that there was a delay in securing funds and resources once the VWAP office of Ottawa agreed to become involved in offering services to alleged victims in the Project Truth prosecutions. Time is always of the essence in securing victim services, which can have an impact on the success of a prosecution and the well-being of an individual.

Recommendations for the Ministry of Community Safety and Correctional Services

Protocol Regarding Allegations of Sexual Assault/Abuse

1. The Ministry should develop a protocol for probation and parole officers throughout Ontario on how to appropriately respond to disclosures of sexual assault/abuse³⁸ by Ministry clients.

File Reviews

2. The Ministry should develop a protocol to ensure that file reviews are conducted in circumstances in which there are allegations of sexual improprieties against Ministry employees by clients under their supervision. The protocol would address whether the review would be conducted internally or whether a request would be made for the review to be conducted by or with the assistance of the police. If an internal review is conducted, the Area Manager should examine the case notes of other clients under the employee's supervision and conduct interviews with them.
3. In the event that a probation and parole officer leaves or dies under suspicious circumstances, it is recommended that the Area Manager conduct a file review of the probation and parole officer's active caseload. If any patterns are discovered that arouse suspicion of improper conduct toward clients, a formal internal Ministry investigation should be launched, including a review of historical files and interviews with clients and former clients.

Statement of Ethical Principles

4. The Code of Conduct for probation and parole officers entitled *Statement of Ethical Principles*, which was introduced in 1995 and was recently reviewed and updated, should continue to ensure that clear and comprehensive direction is given to all employees regarding conflict of interest, and that all dealings with those currently or formerly under the Correctional Services' authority are fair, impartial, and free from impropriety. This statement should be distributed in handbook format to all probation and parole employees. This handbook should be updated as required.

38. The reference to sexual assault/abuse refers to the sexual abuse of children and young people, whether current or historical, unless defined otherwise.

Record Keeping

5. The Ministry should institute policies and procedures to ensure that information on critical incidents is collected systematically by and is easily accessible to Ministry officials at the local and regional levels and that this information is communicated to incoming Area Managers and to other officials assuming supervisory positions at the Ministry.
6. Any breach of the *Statement of Ethical Principles* or similar inappropriate behaviour on the part of an employee that is referenced in an incident report should also be referenced in the employee's performance appraisal.

Training

7. The Ministry should ensure that its employees receive regular training and updating on conflict-of-interest principles and on the ethical behaviour required of staff at the Ministry of Community Safety and Correctional Services as set out in the *Statement of Ethical Principles*.
8. The Ministry should implement province-wide, mandatory, ongoing, regular training for all probation and parole officers on sexual assault/abuse, particularly male-on-male sexual assault/abuse. This training should also provide guidance on how to deal appropriately with disclosures of sexual assault/abuse, including dealing in a sensitive manner with individuals who have disclosed sexual assault/abuse, and referring these individuals to specialized support services.
9. It is important that probation and parole officers receive ongoing training regarding their statutory reporting duties to the Children's Aid Society under the *Child and Family Services Act* to ensure that children at risk are protected.

Screening

10. The Ministry should implement and/or augment stringent screening practices for the hiring of new probation and parole officers. This screening should involve not only contacting candidates' references and performing criminal record checks on all candidates, but also an extensive interview process designed to ensure that the candidate is appropriately suited to dealing with those who are part of a vulnerable population.

Supervision

11. The Ministry should develop a protocol that addresses the supervision by probation and parole officers of former probation and parole officers and other staff who are convicted for sexual and other inappropriate conduct with probationers. Issues such as the venue of the probation and actual and perceived conflict of interest by probation officers supervising the client should be addressed in the protocol.
12. A protocol should be implemented or augmented to ensure that when after-hours meetings with probationers occur, another staff member is present and that the file notes include a reference to the time, location, reason for the after-hours consultation, and a sign-off by the other employee who was in the office.

Need for Internal Investigation

13. If a probation and parole officer who is suspected of or has been charged in regard to sexual assault/abuse chooses to resign, the allegations should still be fully investigated by the Ministry. An investigation may reveal other potential victims who should be contacted. Any alleged victims of the accused individual should be offered support and counselling.

Discipline of Ministry Employees

14. Fear of grievances or the publicity associated with them should not be a consideration when determining whether to discipline Ministry employees.

Reference Letters

15. The Ministry should develop or augment protocols to ensure that detailed information regarding any breach of the *Statement of Ethical Principles* or similar inappropriate behaviour by an employee or former employee will be mentioned in the employee's or former employee's personnel file and any reference letter prepared in regard to the employee or former employee. The Ministry should implement measures to ensure that detailed information on the reasons for an employee's departure from the Ministry, including details of inappropriate and sexual conduct, are included in the employee's personnel file.

Office Communications

16. Given that good interpersonal relationships are vital to continued excellent public service, senior supervisors should be alerted to deteriorating relationships and these issues should be addressed in a timely fashion. In the Cornwall Probation and Parole Office, a “poisoned” work environment created an impediment to disclosures of suspicions of sexual assault/abuse of probationers.
17. The Ministry should take measures to ensure that employees are aware of “whistleblower” legislation in Ontario and that any concerns they bring forward in regard to fellow employees concerning inappropriate behaviour with clients are confidential.

Information Sharing

18. The Ministry should consult with its Justice partners, police, and Crown attorneys, in developing a protocol with respect to the sharing of information regarding complaints or allegations of sexual assault/abuse against current and former Ministry employees.

Public Appeal

19. The Ministry should make a public appeal, urging any victims of sexual assault/abuse to come forward. Given that there have been a number of confirmed cases of sexual assault/abuse of young people by an employee of the Cornwall Probation and Parole Office, that there have been many other allegations of sexual assault/abuse of young people reported against this probation officer and another, and that sexual assault/abuse is known to be generally underreported, it is likely that there are still victims of sexual assault/abuse within the Cornwall area who have not yet come forward. Therefore, the Ministry should convey the message that any individuals who come forward with allegations of sexual assault/abuse will be treated with respect, dignity, and compassion. The Ministry should offer counselling and support to any alleged victims of sexual assault/abuse who come forward.
20. The Ministry should consider making a public apology to all confirmed victims of sexual assault/abuse of young people by an employee in the Cornwall Probation and Parole Office. Given that the *Apology Act*, which came into force in Ontario in April 2009, allows institutions to make apologies without admitting civil liability,

it is also recommended that the Ministry consider extending such an apology to alleged victims who have reported allegations that have not been confirmed through a civil or Ministry process and to victims who have either opted not to come forward or who are yet to come forward. Although Deputy Minister Deborah Newman read an apology when making recommendations to the Inquiry, a similar apology from the Director of the Cornwall Probation and Parole Office could be a positive step toward healing for victims and alleged victims of sexual assault/abuse by probation staff.

Recommendations for the Cornwall Community Police Service

Priority of Sexual Assault/Abuse Cases

1. The Cornwall Community Police Service (CCPS) must ensure that historical sexual assault/abuse³⁹ cases are accorded high priority and are treated with the same urgency as recent sexual assault/abuse cases. Appropriate measures must be taken to ensure that such investigations are conducted in an expeditious manner.

Training

2. Training on the investigation of sexual assault/abuse should be provided to all police officers as part of their basic training. This training should address child sexual assault/abuse, historical sexual assault/abuse and male-on-male sexual assault/abuse.
3. Regular refresher courses on sexual assault/abuse, including child sexual assault/abuse, historical sexual assault/abuse and male-on-male sexual assault/abuse, should be provided to all officers involved in investigating sexual assault/abuse cases. In addition, officers who are starting these types of investigations should receive or continue to receive in-service mentorship.
4. Criminal investigator training should include training on proper rapport building and interviewing techniques to be used with complainants of sexual assault/abuse, whether current or historical.
5. It is important that officers be trained in proper note taking and record keeping for sexual assault/abuse investigations. Such training should ensure that Ontario Municipal and Provincial Police Automation Cooperative (OMPPAC) and other electronic databases are fully utilized, loose-leaf notebooks are not used, notes are not destroyed (unless as specified in destruction or archival orders), and that blank lines are not left between notations or at the end of pages.
6. It is important that officers in the CCPS receive ongoing training regarding their statutory reporting duties to the Children's Aid Society (CAS) under the *Child and Family Services Act* to ensure that children at risk are protected.

39. The reference to sexual assault/abuse refers to the sexual abuse of children and young people, whether current or historical, unless defined otherwise.

Interviewing Sexual Assault/Abuse Complainants

7. All efforts should be made to ensure that interviews with complainants of sexual assault/abuse take place in a comfortable setting, for example, a neutral location rather than an interrogation room. Whenever possible, these interviews should be done in person, not by telephone.
8. Police officers should recognize that sexual assault/abuse complainants are often distrustful of persons in authority and should take the time necessary to build trust with complainants. Although this may require extra time and multiple visits, interviews about the details of the abuse should be as infrequent as possible.
9. The CCPS and the CAS should jointly conduct interviews with child complainants to minimize the number of interviews.
10. Police officers should realize that it might be difficult for complainants of historical child sexual assault/abuse to prepare their own written statements. They may not have the literacy skills or emotional strength to complete such a statement. Although written statements should be discouraged, if a complainant is asked to draft a written statement, an officer should be present to assist him or her. Any meetings convened with the complainant for the purpose of drafting his or her statement should be held in a comfortable setting.
11. When interviewing complainants of sexual assault/abuse, police officers should ask questions designed to ascertain whether there may be other potential victims of the same perpetrator or any other perpetrators.
12. It is important that the CCPS develop a protocol to ensure that complainants of sexual assault/abuse make their disclosures to and are interviewed by officers of the sex of their choice. This will ensure that the trauma of the complainant is reduced and enhance his or her ability to provide intimate and personal details of the sexual assault/abuse alleged.
13. Investigative protocols should require officers to help complainants to develop a plan to best recount their version of past events, including dates. Officers may suggest using certain techniques, such as collecting documents and photographs and/or creating a timeline. CCPS officers should be involved in obtaining these documents. In some circumstances, search warrants may be required.
14. Complainants should be offered the opportunity to be interviewed in the language of their choice. To ensure this choice is the

complainant's, the interviewing officer should not state his or her preference. If the complainant has difficulty expressing him or herself in English or French, every effort should be made to provide accommodation by way of interpreters or otherwise.

Communication With Complainants

15. The CCPS should institute or augment measures to ensure that victims and alleged victims of sexual assault/abuse and, in the case of children who are sexual abuse victims or alleged victims, their parents and family members, are offered support and apprised of the investigation, the laying of charges, and the court proceedings. This could be done by the CCPS directly, through the Victim/Witness Assistance Program (VWAP) or a liaison person as described in the recommendations in Phase 2 of this Report.
16. It is important that CCPS officers ensure that victims and alleged victims of sexual assault/abuse are advised of the outcome of any proceedings against the perpetrator and the sentence imposed by the court. This could be done by the CCPS directly or through a liaison person as described in the recommendations in Phase 2 of this Report.

Counselling Support Services

17. CCPS officers should continue to augment their knowledge of counselling and support services available for victims and alleged victims of sexual assault/abuse, including child sexual assault/abuse, for male-on-male sexual assault/abuse, and for their families. Police officers should always attempt to make referrals to these services when they receive a complaint of sexual assault/abuse.

Supervision of Investigators Working on Sexual Assault/Abuse Cases

18. It is important to ensure that CCPS officers involved in sexual assault/abuse and historical sexual assault/abuse investigations are supervised by experienced senior officers.

Note Taking, Record Keeping, and Accessing Records

19. It is critical that CCPS officers record and insert their notes of investigations into OMPPAC and other electronic databases to ensure that other police officers have access to information uncovered about the alleged perpetrator(s) of sexual assault/abuse.

20. It is important that CCPS officers involved in sexual assault/abuse investigations regularly access OMPPAC and other electronic databases such as the Canadian Police Information Centre (CPIC) to determine whether other officers in their police force or other police forces have information on the alleged perpetrator(s).
21. In addition to instructing CCPS officers on correct note-taking techniques (see number 5 above), the CCPS should take appropriate measures to ensure that its policy on the retention of officers' notes is clearly defined, well understood, and strictly enforced. The policy should stipulate that the officers' notes are the property of the CCPS and that should an officer retire or go on extended leave, his or her notes need to be turned over to the force. Such a policy must also address an efficient way to store these records so they can be searched and accessed whenever necessary.
22. A protocol should be developed on recording information by videotape or audiotape from witnesses in police interviews. It is important that the technology—video and audio—used by officers is of sufficiently high quality to ensure that the words, gestures, and body language of the person interviewed is accurately and fully recorded.

Conflict of Interest

23. In order to avoid an actual or perceived conflict of interest, an external police force should investigate, among other things, allegations of sexual assault/abuse of children by members or former members of the CCPS, or their family members.

Informing Employers

24. An order or directive should be developed that requires police officers to inform public institutions, such as school boards, child welfare agencies, hospitals, local religious institutions, and Justice partners, that an allegation of sexual assault/abuse has been made against one of their employees if the employee under investigation comes into contact with children in the course of their work. This protocol should also apply to anyone on contract with a public institution or community sector organization, such as a bus driver or cleaning staff, and anyone who volunteers with a public institution if the individual under investigation comes into contact with children in the course of his or her duties. Notification should be made by a designated senior CCPS officer

to a designated senior person in the public institution or community sector organization.

Recommendations for the Cornwall Community Police Services Board

Adequate Resources and Communications

25. The Cornwall Community Police Services Board (the Board) must ensure that the CCPS has the necessary resources, such as the requisite number of fully trained officers, to conduct investigations of sexual assault/abuse and, in particular, historical sexual assault/abuse cases, in a timely manner.
26. The Board must ensure that press releases should provide appropriate and accurate information to the public.

Recommendations for the Cornwall Community Police Service and Other Public Institutions

Child Protection Protocol, 2001

27. The CCPS is a partner in the Child Protection Protocol: A Coordinated Response in Eastern Ontario (July 2001). Since this protocol has not been updated, the CCPS should meet as soon as practicable with other partners to review and update the protocol. For those partners actively involved in the investigation and prosecution of sexual assault/abuse cases, consistent roles for the participants should be set out as well as guidance on the sharing of information between investigating bodies. The process of reviewing and updating the protocol should continue triennially.

Joint Training

28. The government of Ontario and the responsible ministries should reinstitute training for CAS workers and police officers as soon as practicable. This joint training should include specific training on responding to historical allegations of abuse. For some aspects of training, consideration should be given to including other Justice partners, such as Crown counsel or those working in hospitals in specialized assault units. Joint training might also support more standardization or the development of “best practices” protocols between police and Children’s Aid Societies.

Disclosure in Joint Investigations

29. In joint investigations involving more than one police force, a protocol should be developed that stipulates that one officer should be responsible for all disclosure requests. This officer should have a contact on the other force or forces who assists with disclosure, but should personally oversee and track which items have been disclosed to the Crown on behalf of all police forces involved in the investigation.

Major Case Management

30. The Ministry of the Attorney General and Ontario police agencies should review and compare their major case management protocols to identify and rectify inconsistencies and gaps.

Recommendations for the Ontario Provincial Police

Protocol for Special Projects

1. The Ontario Provincial Police (OPP) should develop and implement a protocol for special project investigations involving sexual assault/abuse cases.⁴⁰ This protocol should set out, among other things:
 - the need for a clear mandate of the special project;
 - the special projects mandate communicated to all [regional] OPP officers. For example, information regarding a special project in Eastern Ontario should be sent to local detachments and posted in full view with a contact number to call if there are questions or a need for further information;
 - the need for a dedicated Crown attorney(s);
 - a media strategy developed at the outset of any investigation;
 - a clearly defined reporting structure;
 - timely and frequent communications with OPP Headquarters to ensure appropriate resourcing; and
 - a formal strategy for collaboration with other relevant agencies including other police forces, child protection services, school boards, and the Crown, which defines the roles and responsibilities of participants.

Priority of Sexual Assault/Abuse Cases

2. The OPP must ensure that historical sexual assault/abuse cases are accorded high priority and are treated with the same urgency as recent sexual assault/abuse cases. Appropriate measures must be taken to ensure that such investigations are conducted in an expeditious manner.

Training

3. Training and refresher courses should continue to be provided to OPP officers involved in sexual assault/abuse investigations. This should include training on both current and historical abuse investigations. It should also include information that will assist

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- officers in understanding sexual abuse victims, including the “grooming” of victims of sexual abuse and issues particular to victims of historical sexual abuse and male-on-male sexual abuse, as well as in interviewing individuals suspected of sexual abuse.
4. Regular refresher courses on sexual assault/abuse, including child sexual assault/abuse, historical sexual assault/abuse, and male-on-male sexual assault/abuse, should be provided to all officers involved in investigating sexual assault/abuse cases. In addition, officers who are starting these types of investigations should receive or continue to receive in-service mentorship. If not already in place, a procedure should be established to ensure that OPP officers investigating lawyers as suspects have specialized training and knowledge, or are able to consult with someone who does, such as a Crown attorney in the Special Prosecutions Unit.
 5. It is important that officers in the OPP receive ongoing training regarding their statutory reporting duties to the Children’s Aid Society (CAS) under the *Child and Family Services Act* to ensure that children at risk are protected.

Interviewing Sexual Assault/Abuse Complainants

6. Although it is sometimes necessary because complainants will disclose the full extent of their abuse only over time, taking multiple statements from a complainant should be avoided where possible.
7. The OPP and the CAS should jointly conduct interviews with child complainants to minimize the number of interviews.
8. All efforts should be made to ensure that interviews with complainants of sexual assault/abuse take place in a comfortable setting, for example, a neutral location rather than an interrogation room. Whenever possible, these interviews should be done in person, not by telephone.
9. Investigative protocols should require officers to help complainants to develop a plan to best recount their version of past events, including dates. Officers may suggest using certain techniques, such as collecting documents and photographs and/or creating a timeline. OPP officers should be involved in obtaining these documents. In some circumstances, search warrants may be required.
10. Complainants should be offered the opportunity to be interviewed in the language of their choice. To ensure this choice is the complainant’s, the interviewing officer should not state his or

her preference. If the complainant has difficulty expressing him or herself in English or French, every effort should be made to provide accommodation by way of interpreters or otherwise.

11. It is important that the OPP develop a protocol to ensure that complainants of sexual assault/abuse make their disclosures to and are interviewed by officers of the sex of their choice. This will ensure that the trauma of the complainant is reduced and enhance his or her ability to provide intimate and personal details of the sexual assault/abuse alleged.

Communication With Complainants

12. The OPP should institute or augment measures to ensure that victims and alleged victims of sexual assault/abuse and, in the case of children who are sexual abuse victims or alleged victims, their parents and family members, are offered support and apprised of the investigation, the laying of charges, and the court proceedings. This could be done by the OPP directly, through the Victim/Witness Assistance Program (VWAP) or by a liaison person as described in the recommendations in Phase 2 of this Report.
13. It is important that the OPP officers inform victims and alleged victims of sexual assault/abuse of the outcome of any proceedings against the perpetrator and the sentence imposed by the court. This could be done by the OPP directly or through a liaison person as described in the recommendations in Phase 2 of this Report.

Counselling and Support Services

14. OPP officers should continue to augment their knowledge of counselling and support services available for victims and alleged victims of sexual assault/abuse, for male-on-male sexual assault/abuse, and for their families. Police officers should always attempt to make referrals to these services when they receive a complaint of sexual assault/abuse.

Consultation in Historical Sexual Abuse Cases

15. Given the particular complexities and sensitivities that arise in historical sexual abuse cases, case managers (for major cases) should consult with the Regional or Detachment Sexual Abuse Coordinator early in the planning phases of such investigations and include these officers as part of the investigative team.

Note Taking, Record Keeping, and Accessing Records

16. It is critical that OPP officers maintain detailed documentation of their investigative work as well as of meetings attended.
17. It is critical that OPP officers record and insert their notes from investigations into the Ontario Municipal and Provincial Police Automation Cooperative (OMPPAC) and other electronic databases to ensure that other police officers have access to information about the alleged perpetrator(s) of sexual assault/abuse.
18. It is important that OPP officers involved in sexual assault/abuse investigations regularly access OMPPAC and other electronic databases such as the Canadian Police Information Centre (CPIC) to determine whether other officers in their police force or other police forces have information on the alleged perpetrator(s).
19. The OPP should take appropriate measures to ensure that its policy on the retention of officers' notes is clearly defined, well understood, and strictly enforced. The policy should continue to stipulate that the officers' notes are the property of the OPP and that should the officer retire or go on extended leave, his or her notes need to be turned over to the force. Such a policy must also address an efficient way to store these records so they can be searched and accessed whenever necessary.
20. The OPP should take steps to develop policies and protocols for the destruction of property. These policies and protocols should require that property reports clearly indicate who disposed of the property. As well, quit claim forms should require a witness signature; at least two people should be present for the complete destruction of property; time, date, and method of destruction should be recorded along with both witnesses' signatures; and the viewing of tapes with suspected criminal activity should be better itemized and then archived for future reference.
21. A protocol should be developed on recording information by videotape or audiotape from witnesses in police interviews. It is important that the technology—video and audio—used by officers is of sufficiently high quality to ensure that the words, gestures, and body language of the person interviewed is accurately and fully recorded.

Adequate Resources

22. The OPP must ensure that it has the necessary resources, such as the requisite number of fully trained officers, to conduct investigations of sexual assault/abuse in a timely manner, in particular, historical sexual assault/abuse cases.

Communication Plans and Media Releases

23. Press releases should provide appropriate and accurate information to the public. Regular communication between the investigators and the media liaison official should help to ensure this occurs.

Informing Employers

24. An order or directive should be developed that requires the OPP to inform public institutions, such as school boards, child welfare agencies, hospitals, local religious institutions, and Justice partners, that an allegation of sexual assault/abuse has been made against one of their employees if the employee under investigation comes into contact with children in the course of their work. This protocol should also apply to anyone on contract with a public institution or community-sector organization, such as a bus driver or cleaning staff, and anyone who volunteers with a public institution if the individual under investigation comes into contact with children in the course of his or her duties. Notification should be made by a designated senior OPP officer to a designated senior person in the public institution or community sector organization.

Recommendations for the OPP and Other Public Institutions

Child Protection Protocol, 2001

25. The OPP is a partner in the Child Protection Protocol: A Coordinated Response in Eastern Ontario (July 2001). Since this protocol has not been updated, the OPP should meet as soon as practicable with other partners to review and update the protocol. For those partners actively involved in the investigation and prosecution of sexual assault/abuse cases, consistent roles for the participants should be set out as well as guidance on information sharing between investigating bodies. The process of reviewing and updating the protocol should continue triennially.

Joint Training

26. The government of Ontario and the responsible ministries should reinstitute joint training for CAS workers and police officers as soon as practicable. This joint training should include specific training on responding to historical allegations of abuse. For some aspects of training, consideration should be given to including other Justice

partners, such as Crown counsel or those working in hospitals, in specialized assault units. Joint training might also support more standardization or the development of “best practices” protocols between police and Children’s Aid Societies.

Court Management Protocol

27. The OPP and MAG, in particular the Crown Attorney’s Office in Cornwall, should develop a court management protocol as soon as practicable. This protocol should address the specific roles, duties, and relationship between OPP officers and Crown attorneys in relation to prosecutions, and be reviewed triennially.

Special Project Prosecutions

28. OPP and MAG should work together to develop joint operational plans in special project prosecutions.
29. MAG and Ontario police agencies should review and compare their major case management protocols to identify and rectify inconsistencies and gaps.

Disclosure in Joint Investigations

30. In joint investigations involving more than one police force, a protocol should be developed that stipulates that one officer should be responsible for all disclosure requests. This officer should have a contact on the other force or forces who assists with disclosure but should personally oversee and track which items have been disclosed to the Crown on behalf of all police forces involved in the investigation.

Recommendations for the Diocese of Alexandria-Cornwall

Encourage Report to Police

1. The Bishop, priests, employees, and volunteers of the Diocese of Alexandria-Cornwall should encourage individuals who disclose the sexual assault/abuse⁴¹ of an individual over the age of sixteen years old to report their allegation to the police.

Immediate Report to Children's Aid Society

2. The Diocese should add a provision to its "Diocesan Guidelines on Managing Allegations of Sexual Abuse of Children and of Sexual Assault of Adults by Clergy, Religious, Lay Employees, and Volunteers" (2003) that states that when a bishop is informed of an allegation of sexual assault/abuse made against a clergy member or diocesan employee or volunteer, he should report it to the civil authorities immediately, rather than waiting to make this report until after undertaking a preliminary inquiry.

Settlement Documents

3. The Diocese should carefully review settlement documents that are entered into by the Diocese and alleged victims of sexual assault/abuse to ensure that they contain no confidentiality clauses.

Information Sharing Within the Diocese and Among Dioceses

4. The Diocese should openly exchange information with other dioceses about allegations of sexual assault/abuse. If allegations of sexual assault/abuse arise against a priest who is not incardinated in the Diocese of Alexandria-Cornwall but is working within the Diocese of Alexandria-Cornwall, the Diocese of Alexandria-Cornwall should inform the diocese within which the accused priest is incardinated or the religious order with which he is affiliated of the allegations, with full particulars. If allegations of sexual assault/abuse arise against a priest who is incardinated within the Diocese of Alexandria-Cornwall but is working within a different diocese, the Diocese of Alexandria-Cornwall should inform that other diocese of the allegations, with full particulars.

41. The reference to sexual assault/abuse refers to the sexual abuse of children and young people, whether current or historical, unless defined otherwise.

5. A diocesan protocol should be amended or a new protocol be developed to require that an outgoing bishop of the Diocese of Alexandria-Cornwall inform incoming bishops of allegations of sexual misconduct by members of the clergy, employees, or volunteers in the Diocese with children and young people in the community.

Note Taking and Record Keeping

6. The Bishop of the Diocese of Alexandria-Cornwall should maintain accurate records of allegations of sexual assault/abuse made against clergy members, employees, or volunteers in the Diocese.
7. The Bishop of the Diocese of Alexandria-Cornwall and other Church officials should be conversant with the material in the personnel files of priests, particularly with respect to allegations of sexual misconduct.

Training

8. All members of the clergy and employees and volunteers of the Diocese of Alexandria-Cornwall should receive ongoing training about sexual assault/abuse. Those individuals delegated by the Diocese to have contact with victims who have been allegedly sexually assaulted/abused by members of the clergy or by diocesan employees or volunteers should receive specialized training on sexual assault/abuse. This training should address child sexual assault/abuse, historical sexual assault/abuse, and male sexual victimization. These individuals should also receive ongoing training and be required to attend regular refresher courses.
9. It is important that the bishop, priests, employees, and volunteers of the Diocese receive ongoing training regarding their statutory reporting duties to the Children's Aid Society under the *Child and Family Services Act* to ensure that children at risk are protected.

Screening

10. The Diocese should institute rigorous procedures for evaluating the suitability of candidates it plans to present for study at the seminary. It should also institute rigorous procedures to continually monitor and evaluate the suitability of candidates it presented to the seminary throughout the candidates' time there.
11. The Diocese should institute rigorous procedures to continually evaluate the suitability of its priests for ministry.

Diocese's Response to Allegations Against a Clergy Member or a Diocesan Employee or Volunteer

12. The Diocese should amend its existing protocols or create new protocols to address the following issues regarding its response to allegations against a clergy member or a diocesan employee or volunteer:
 - a. Upon being informed of an allegation of sexual assault/abuse against a priest, the bishop should immediately suspend the priest from active ministry. The priest should not be returned to active ministry until a criminal, civil, and/or internal process is completed.
 - b. The bishop must not be present when the individual who allegedly perpetrated sexual assault/abuse is speaking with his lawyer. This information is protected by solicitor-client privilege. The bishop should take a neutral approach because he has responsibilities not only to the alleged perpetrator but also to the alleged victim and the parishioners.
 - c. The "Diocesan Guidelines on Managing Allegations of Sexual Abuse of Children and of Sexual Assault of Adults by Clergy, Religious, Lay Employees, and Volunteers" (2003) states, "If at the conclusion of a Children's Aid Society or police investigation no charges are laid but the Advisory Committee deems the innocence of the accused remains in question, the Committee *can* direct the Delegate to investigate the allegations in order to make a comprehensive report to the Committee for recommendations to the Bishop" (emphasis added). It is recommended that the word *can* be replaced with the word *shall* in this sentence.
13. The Diocese should appoint a representative to monitor any criminal trials involving allegations of sexual assault/abuse against a clergy member or a diocesan employee or volunteer. Knowledge of the criminal proceedings will allow the Diocese to make appropriate decisions regarding how to deal with the accused individual (for example, whether the individual should be allowed to return to his or her post, whether an internal church investigation should be pursued, etc.), and in what ways the Diocese can support and provide assistance to the alleged victim(s). It will also ensure that if other victims are identified or other allegations emerge, the Diocese is able to respond properly and to assist the police, CAS, or other officials in their respective investigations.

14. In circumstances in which charges against a priest for alleged sexual assault/abuse are withdrawn or stayed for reasons other than the merits of the case—for example, the complainant is diagnosed with a terminal illness and is unable to testify—the Diocese should conduct a review of the incident to determine whether the priest constitutes a risk to young people such as parishioners and others with whom he has contact. The Diocese should impose appropriate measures if it concludes that the priest continues to pose a risk.
15. The Diocese should give serious consideration to amending its protocol(s) to provide that a priest who has been found guilty of sexual assault/abuse of a young person is prohibited from resuming ministerial duties. Evidence led at the Inquiry suggests that there is no current prohibition to prevent such resumption of duties. If it is ever decided that a priest who has been found guilty of sexual assault/abuse of a young person is to resume ministerial duties, it is recommended that strict restrictions be placed upon him.
16. The “Protocol for priests who are the subject matter of criminal proceedings or civil litigations” (1996) states that if certain conditions are present, a priest accused of an indictable offence will be placed on a leave of absence, and that after six months, this leave will become permanent. Thus, this provision could provide for the permanent dismissal of a priest who is later found not guilty. It is recommended that this protocol be amended to provide that if a priest is to be permanently removed from ministry, this removal will occur only after the conclusion of a criminal, civil, and/or church investigation.
17. The Diocese should require a priest who has allegedly assaulted/abused young persons who wishes to receive funding for a court appeal to submit a written request describing the reasons for the appeal. The Diocese should then review and assess the request and decide whether such funding should be provided.
18. If an individual who has been accused of sexual assault/abuse chooses to resign, the allegations should still be reported to the civil authorities and/or be fully investigated by the Diocese, and any alleged victims of the accused priest should be offered support and counselling.
19. The Diocese should create a policy that precludes the transfer of a clergy member who has committed an act of sexual misconduct to another diocese or religious order. Although evidence led at the Inquiry suggested that the Diocese would not permit the transfer of a clergy member who had committed an act of sexual misconduct to

another diocese or religious order, it also revealed that the Diocese has no written policy precluding such a transfer.

20. The Diocese should create a policy regarding communication with the media on sexual misconduct and that this policy include guidance regarding the leadership role the Bishop is to take regarding the recovery process, as was recommended in the 2005 Catholic Mutual Canada review of the Diocese's policies. This communications policy should provide direction on how information is to be shared with clergy members and employees and volunteers of the Diocese of Alexandria-Cornwall, other dioceses, other public institutions such as the school board, members of the parish where the accused individual served, and the public at large, following disclosure, charges, or convictions related to incidents of sexual assault/abuse of young people by a clergy member or diocesan employee or volunteer. These plans should balance the rights of the alleged victims to privacy with the broader public interest of encouraging other alleged victims to come forward and to receive support.

Treatment of Accused Priests

21. In seeking therapeutic options for priests who have committed or who are alleged to have committed sexual abuse of young people, the Diocese should use only qualified treatment centres that specialize in treating sexual disorders and that evaluate patient outcomes in a disinterested, professional manner.

Public Appeal and Apology

22. The Diocese should make a public appeal, urging any victims of clergy sexual assault/abuse to come forward. Given that there have been a number of confirmed cases of sexual assault/abuse by clergy in the Diocese of Alexandria-Cornwall, that there have been other allegations of sexual assault/abuse reported against diocesan clergy, and that sexual assault/abuse is known to be generally underreported, it is likely that there are still victims of clergy sexual abuse within the Diocese of Alexandria-Cornwall who have not yet come forward. Therefore, the Diocese should convey the message that any individuals who come forward with allegations of clergy sexual assault/abuse will be treated with respect, dignity, and compassion. The Diocese should offer counselling and support to any alleged victims of clergy sexual assault/abuse who come forward.

23. The Diocese should consider making a public apology to all confirmed victims of sexual assault/abuse by clergy in the Diocese of Alexandria-Cornwall and that this apology be delivered by the Bishop of the Diocese of Alexandria-Cornwall. Given that the *Apology Act*, which came into force in Ontario in April 2009, allows institutions to make apologies without admitting civil liability, it is also recommended that the Diocese consider extending such an apology to alleged victims who have reported allegations that have not been confirmed through a civil or Church process and to victims who have either opted not to come forward or who are yet to come forward. During the hearings, an apology from Bishop Paul-André Durocher to Lise Brisson, the mother of one of the victims of Father Gilles Deslauriers was read by counsel. It was clear that this apology meant a great deal to Ms Brisson and provided a step toward healing for her. Such an apology could be a positive step toward healing for many of the victims and alleged victims of sexual assault/abuse by clergy in the Diocese of Alexandria-Cornwall.

Recommended Proposal to the Canadian Conference of Catholic Bishops

The Bishop of the Diocese of Alexandria-Cornwall is encouraged to propose the following measures to the Canadian Conference of Catholic Bishops.

24. A uniform national protocol for addressing allegations of sexual assault/abuse for dioceses in Canada should be developed. The national protocol should:
- a. be premised on the principles of transparency and openness discussed in *From Pain to Hope* and the 2005 *Report of the Special Task Force for the Review of From Pain to Hope*;
 - b. focus on prevention of sexual assault/abuse as well as care and counseling for victims allegedly assaulted/abused;
 - c. contain a provision prohibiting confidentiality clauses from being included in any settlements entered into between a diocese and an alleged victim of sexual assault/abuse;
 - d. contain guidance on the sharing of information regarding allegations of sexual assault/abuse between dioceses; and
 - e. contain guidance on either the prohibition of or the strict restrictions placed upon the transfer of a clergy member who has committed an act of sexual misconduct from one diocese to another.

Recommendations for the Diocese of Alexandria-Cornwall and Other Public Institutions

Child Protection Protocol, 2001

25. The Diocese should ask the current institutional partners in the Child Protection Protocol: A Coordinated Response in Eastern Ontario that was promulgated in 2001 to be included as a full party. The Diocese and its institutional partners shall meet as soon as practicable to review and update the protocol. For those partners actively involved in the investigation and prosecution of sexual assault/abuse cases, consistent roles for the participants should be set out as well as guidance on the sharing of information between investigating bodies. The process of reviewing and updating the protocol should continue triennially.

Recommendations for the Children's Aid Society of Stormont, Dundas & Glengarry

Policies, Procedures, and Protocols

1. Steps should be taken to ensure that the language used in the *Child and Family Services Act* and in Children's Aid Society (CAS) policy documents is consistent. The definition of caregiver in the eligibility spectrum should be consistent with the definition of a person having charge of a child found in the *Child and Family Services Act*, and in the Revised Standards and Guidelines (1992). The definitions in CAS policy documents should be clarified in order to provide more certainty as to when the agency does or does not get involved in an allegation of abuse, particularly in extra-familial situations.
2. The CAS of SD&G should develop a schedule to review and update policies and protocols triennially, and more frequently if there is a relevant legislative change.

Records

3. The CAS of Stormont, Dundas, & Glengarry (SD&G) should review its records-management system to ensure that the information it obtains can be easily cross-referenced throughout its activities, whether it receives child-protection information, foster-parent applications, or other information.
4. The CAS of SD&G should develop or augment guidelines to indicate when the names of individuals should be checked to see if they appear in any CAS records or databases. An automatic check should be performed whenever a child is staying with a substitute caregiver.
5. Case recordings made by CAS of SD&G workers should be more detailed. They should include the location of any meeting or interview with a child in care and should include more details of the supporting facts and observations when inferences related to sexual conduct are being drawn.

Foster-Home Files to Be Updated Regularly

6. The CAS of SD&G should ensure that foster-home files are updated regularly, particularly in cases where various workers are involved with children in the home.

Foster Children to Be Questioned Outside the Home

7. The CAS of SD&G should require workers to conduct meetings with children without the presence of foster parents, preferably in a location outside the foster home.

Unscheduled Visits to Foster Homes

8. The government of Ontario, and in particular the Ministry of Children and Youth Services or the Ministry of Community and Social Services, should make it mandatory that the CAS include in service agreements with foster parents unscheduled worker visits to foster homes.

Prevention of Conflicts of Interest in CAS Investigations

9. The CAS of SD&G should develop a detailed internal policy about how to handle situations where there is a conflict of interest, such as when allegations of sexual assault/abuse⁴² are made by a ward against an agency employee or when an employee applies to be a foster parent or adopt a child. The policy should include a clear definition of a conflict of interest and require that an outside agency be asked to investigate in all cases where there is such a conflict.

Sexual Abuse Allegations to Be Communicated to the Police

10. The CAS of SD&G should amend its foster-care policy to provide that all serious occurrences involving allegations of sexual assault/abuse should be reported to the police for further investigation.

Disclosure to Employers

11. The government of Ontario, and in particular the Ministry of Community and Social Services or the Ministry of Children and Youth Services should develop a protocol to assist Children's Aid Societies across Ontario in determining when an employer should be advised of sexual assault/abuse allegations against one of its employees. This policy should require disclosure to employers

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when an employee has allegedly sexually abused a child and the employee, as part of his or her work, has regular contact with children. Notification should take place only after a preliminary analysis. If there is a subsequent verification of the sexual abuse, given that the societal interest in the protection of children outweighs individual privacy interests, the CAS need not seek the employee's consent before its disclosure to the employer.

Duty to Report

12. The government of Ontario should amend the *Child and Family Services Act* to clarify that the duty-to-report provisions apply to cases of historical abuse where there is a risk that the alleged abuser has current access to children.

File Disclosure

13. The government of Ontario, and in particular, the Ministry of Community and Social Services or the Ministry of Children and Youth Services, should develop standards and provide guidance to all CAS on disclosure of records and the type of records individuals formerly in the care of a CAS should receive. This should include a review of the provisions of Part VIII of the *Child and Family Services Act*, which deals with confidentiality and access to records.
14. The government of Ontario and, in particular, the Ministry of Community and Social Services or the Ministry of Children and Youth Services, should require Children's Aid Societies to compile the following information with respect to all wards in their care:
 - a record of their updated social history;
 - their full medical history;
 - the contact information for mental health professionals who have done tests and produced reports for them, along with information on how to obtain those reports and test results;
 - a full list of schools attended, with the names of teachers, the grades completed, and copies of report cards;
 - a list of the foster homes where they lived, including the dates and placements and the names of the foster family members living with them in the home; and

- a list of churches, clubs, and so on, attended and any certificates received from these organizations.

A sign-off by a parent or guardian or the youth him- or herself would be required prior to authorizing the release of the information. A full copy of the material, including the sign-off, would be kept by the CAS at the front of the child's file and, except in exceptional circumstances, would be immediately available to the individual if requested in later years.

15. If requested, the CAS of SD&G should provide former wards or those subject to protection orders with timely access to a copy of their file with confidential information pertaining to other people redacted. Except in exceptional circumstances, information such as the following should not be redacted:
 - a. the names of foster parents
 - b. the names of CAS worker(s); and
 - c. the names of other wards residing in a particular foster home. (Personal information about the children and their particular circumstances should be redacted to protect their privacy interests.)

Counselling

16. The CAS of SD&G should ensure that every effort is made to encourage and support wards who have been sexually assaulted/abused to attend counselling.

Reassessment of the Child Abuse Register

17. The government of Ontario and, in particular, the Ministry of Community and Social Services or the Ministry of Children and Youth Services, should undertake a review of the Child Abuse Register and determine whether it still serves a useful purpose in its present form. If the decision is made to keep the Child Abuse Register, it should be revised to exclude the names of victims and the CAS should be allowed to use it as a screening tool for potential employees and foster parents.
18. The government of Ontario should permit the CAS to use the Child Abuse Register and the Child Protection Fast Track Information System to screen its prospective employees and foster parents.

Recommendations for the Children’s Aid Society of Stormont, Dundas, & Glengarry and Other Public Institutions

Joint Training

19. The government of Ontario and the responsible ministries should reinstitute joint training for CAS and police officers as soon as practicable. This joint training should include specific training on responding to historical allegations of abuse. For some aspects of training, consideration should be given to including other Justice partners, such as Crown counsel or those working in hospitals, in specialized assault units. Joint training might also support more standardization or the development of “best practices” protocols between police and Children’s Aid Societies.

Child Protection Protocol, 2001

20. The CAS of SD&G is a partner in the “Child Protection Protocol: A Coordinated Response in Eastern Ontario” (July 2001). Since this protocol has not been updated, the CAS of SD&G should meet as soon as practicable with other partners to review and update the protocol. For those partners actively involved in the investigation and prosecution of sexual assault/abuse cases, consistent roles for the participants should be set out as well as guidance on the sharing of information between investigating bodies. The process of reviewing and updating the protocol should continue triennially.

Recommendations for the Catholic District School Board of Eastern Ontario and the Upper Canada District School Board of Eastern Ontario

Policies, Procedures, and Protocols

1. The Boards should implement or augment existing policies, procedures, and protocols related to the abuse of children and young people to address the following issues:
 - discipline or termination of employees charged with or convicted of sexual offences;
 - the preparation of communications plans that provide direction on information sharing to Board staff, students, parents, and the public at large following disclosure, charges, or convictions related to incidents of abuse. These plans should balance the rights of the alleged victims to privacy with the broader public interest of encouraging other alleged victims to come forward and to receive support.
2. The Boards should implement or augment existing policies, procedures, and protocols to address the following issues pertaining to circumstances in which the alleged victim of sexual assault/abuse⁴³ is sixteen years of age or older:
 - reporting to the Children's Aid Society in appropriate circumstances, such as when there are concerns that the alleged offender has continued access to children and young people;
 - the response to sexual misconduct by Board employees, volunteers, or others associated with the school.
3. The Boards should ensure that all policies, procedures, and protocols related to the abuse of children and young people are regularly updated. These updates should occur triennially and more frequently if needed to reflect legislative change.

Training

4. The Boards should offer training about sexual abuse that includes information on how to identify inappropriate patterns of behaviour by authority figures.

43. The reference to sexual assault/abuse refers to the sexual abuse of children and young people, whether current or historical, unless defined otherwise.

5. The Boards should circulate periodic questionnaires to staff to ascertain the extent to which information on policy and procedures on sexual abuse are understood and where to focus training needs.
6. It is important that Board employees and volunteers receive training regarding their statutory reporting duties to the Children's Aid Society under the *Child and Family Services Act* to ensure that children at risk are protected.

Physical Audits

7. The Boards should ensure that physical audits of their schools are conducted. The focus of these audits would be to make appropriate changes to reduce the opportunity for sexual abuse by removing unnecessary locks or putting glass in office doors to facilitate observation.

Transportation Providers

8. The Boards should continue to conduct periodic audits of transportation providers to ensure they comply with Board policy on the screening of school bus drivers.

Information Requests

9. Given the reorganization and/or amalgamation of school boards, the Boards operating within the United Counties of Stormont, Dundas, and Glengarry should develop protocols for dealing with information requests on historical incidents, with a view to ensuring accountability for the provision of information and respect for the legitimate needs of those seeking information.

Screening and Hiring Persons With Access to Board Schools

10. The Boards should ensure that they receive copies of criminal record checks and any screening information for priests or members of a religious order, counsellors, psychologists, and other professionals who are regularly present at Board schools. Additionally, as a minimum, a yearly declaration of criminal record should be obtained.

11. If the Board pays the salary of a priest, member of a religious order, or other religious representative, counsellor, psychologist, or other professional, or provides a school office to such a person, it should satisfy itself as to the suitability of this person, and ensure that, in the event of a complaint of sexual abuse, the same policies apply as are in place for teachers, other employees, volunteers, and school bus drivers, in terms of reporting and removal from or restriction of duties pending resolution of the complaint.

Public Appeal and Apology

12. The Boards should make a public appeal, urging any victims of sexual assault/abuse to come forward. Given that there have been a number of confirmed cases of sexual assault/abuse of young people by employees of the Boards, that there have been many other allegations of sexual assault/abuse of young people reported against the Boards' employees, and it is known that sexual assault/abuse is generally underreported, it is likely that there are still victims of sexual assault/abuse within the Cornwall area who have not yet come forward. Therefore, the Boards should convey the message that any individuals who come forward with allegations of sexual assault/abuse will be treated with respect, dignity, and compassion. The Boards should offer counselling and support to any alleged victims of sexual assault/abuse who come forward.
13. The Boards should consider making a public apology to all confirmed victims of sexual assault/abuse of young people by an employee of the Boards and that this apology be delivered by the Director of Education of each Board. Given that the *Apology Act*, which came into force in Ontario in April 2009, allows institutions to make apologies without admitting civil liability, it is also recommended that the Boards consider extending such an apology to alleged victims who have reported allegations that have not been confirmed through a civil or Board process and to victims and alleged victims who have either opted not to come forward or who are yet to come forward.

Recommendations for the Boards and Other Public Institutions

Child Protection Protocol, 2001

14. The Boards are partners in the Child Protection Protocol: A Coordinated Response in Eastern Ontario (July 2001). Since this protocol has not been updated, the Boards should meet as soon as practicable with other partners to review and update the protocol. For those partners actively involved in the investigation and prosecution of sexual assault/abuse cases, consistent roles for the participants should be set out as well as guidance on the sharing of information between investigating bodies. The process of reviewing and updating the protocol should continue triennially.

Recommendations for the Ministry of the Attorney General for Ontario

Policies, Procedures, and Protocols

1. The Ministry of the Attorney General (MAG) should implement a practice memorandum on historical allegations of sexual offences or augment existing policies, procedures, and protocols, particularly Practice Memorandum [2006] No. 9, Sexual Assault and Other Sexual Offences, and Practice Memorandum [2006] No. 8, Child Abuse and Offences Involving Children, to ensure that they address historical cases of sexual assault/abuse⁴⁴ of children or young people.
2. MAG should implement or augment existing policies, procedures, and protocols to provide that allegations of sexual assault/abuse reported to a Crown counsel should immediately be turned over to police for investigation.
3. MAG should consider modifying its practice memorandum on recanting witnesses, PM [2002] No. 7, Recanting Witnesses, to provide direction to Crown counsel regarding situations where the witness is not recanting but is reluctant to proceed.
4. MAG should conduct audits of local Crown attorney offices to ensure compliance with practice memoranda that deal with sexual assault/abuse cases. Among other requirements, the audit should insist that each office has a protocol in place to ensure that:
 - complainants or the Victim/Witness Assistance Program (VWAP) person involved, or the liaison person as described in the recommendations of Phase 2 of this Report, are advised of significant steps in proceedings;
 - the office has developed a network of interagency contacts and mechanisms for sharing information and expertise;
 - the office has designated a Local Child Abuse coordinator and set out his or her role and expertise; and
 - the office has established and kept up to date local and regional protocols with police, CAS, and VWAP regarding historical sexual abuse cases.

44. The reference to sexual assault/abuse refers to the sexual abuse of children and young people, whether current or historical, unless defined otherwise.

File Control and Possession

5. MAG should clarify that prosecution files are the property of MAG and should remain in the possession of the Ministry. Crown counsel should not be permitted to retain possession or control of files when no longer involved in prosecutions.

Conflict of Interest

6. MAG should implement a practice memorandum that will provide direction to Crown counsel in identifying and dealing with conflicts of interest. The practice memorandum should also identify situations or cases that are to be referred to Justice Prosecutions.

Justice Prosecutions or Other Conflict-of-Interest Cases

7. MAG should secure adequate and sufficient staff, equipment, and temporary offices to permit Crowns to adequately prosecute Justice Prosecution and conflict-of-interest cases.

Crown Opinions

8. MAG should implement or augment existing policies, procedures, and protocols dealing with Crown opinions, particularly Practice Memorandum [2005] No. 34, Police: Relationship with Crown Counsel, to address the following issues: communicating with the investigating officer before rendering an opinion, opening a file, keeping a copy of the opinion, and ensuring that the opinion letter is available to the Crown counsel assigned to the file.

Disclosure

9. MAG should develop a uniform tracking system for disclosure, to be implemented in all Crown offices, to track the receipt of disclosure from investigators, the disclosure to the accused or to defence counsel, the description or content of the disclosure, and any disclosure updates provided.

Duty to Report

10. It is important the Crown counsel receive ongoing training regarding their statutory reporting duties to the Children's Aid Society under the *Child and Family Services Act* to ensure that children at risk are protected.
11. MAG should take measures to ensure that Crown counsel are aware that as "solicitors," they are considered "professional[s] performing official duties with children" under section 72(5) of the *Child and Family Services Act*, which means that any failure to report on their part is considered an offence.

Language

12. Complainants should be offered the opportunity to be accommodated in the language of their choice throughout the process. To ensure this choice is the complainant's, the Crown attorney and/or other employees should not state their preference. If the complainant has difficulty expressing him- or herself in English or French, every effort should be made to provide accommodation by way of interpreters or otherwise.

Tracking System

13. MAG should implement or augment existing policies, procedures, and protocols with regard to tracking the service of documents received by the Ministry. The system is to ensure tracking of documents received, reviewed, and forwarded to appropriate authorities and officials within the Ministry.

Delays

14. MAG should consider implementing the recommendations from the Lesage/Code report on the issue of empowering a judge to rule at the early pre-trial stages of a proceeding.

Special Project Prosecutions

15. MAG should assign a dedicated Crown or team of Crowns to assist throughout the investigations and prosecutions in

Ontario Provincial Police (OPP) special projects involving sexual assault/abuse, such as Project Truth.

16. MAG should ensure that Crown counsel assigned to conduct long and complex criminal prosecutions are provided with adequate resources and are relieved of other responsibilities.

Major Case Management

17. MAG should augment its major case resource document and adopt it as a formal policy or practice memorandum.

Major Case Resource Document

18. MAG's major case resource document should be augmented to include special considerations that may arise in regard to major cases in small communities, such as the prosecutor having to travel significant distances. In addition, the threshold for defining a major case and the factors that make a case "major" may be different in a small community than in a large urban centre.

Media Relations

19. MAG should implement and augment policies, procedures, and protocols related to media issues to ensure that media representatives speaking on behalf of both the police and Crown Attorney's Office disseminate a clear and accurate message to the public representing the position of both institutions in a major or high-profile case.

Joint Training

20. MAG should consider participating in some aspects of the reinstituted joint training for CAS workers and police officers on responding to historical allegations of abuse.

Recommendations for the Ministry of the Attorney General for Ontario and Other Public Institutions

Special Project Prosecutions

21. MAG and the OPP should work together to develop joint operational plans in special project prosecutions, such as Project Truth.

Major Case Management

22. MAG and the Ontario police agencies should review and compare their major case management protocols to identify and rectify inconsistencies and gaps.

Court Management Protocol

23. The OPP and MAG, in particular the Crown Attorney's office in Cornwall, should develop a court management protocol as soon as practicable. This protocol should address the specific roles, duties, and relationship between OPP officers and Crown counsel in relation to prosecutions, and should be reviewed triennially.

Child Protection Protocol, 2001

24. MAG is a partner in the Child Protection Protocol: A Coordinated Response in Eastern Ontario (July 2001). Since this protocol has not been updated, MAG should meet as soon as practicable with other partners to review and update the protocol. For those partners actively involved in the investigation and prosecution of sexual assault/abuse cases, consistent roles for the participants should be set out as well as guidance on the sharing of information between investigating bodies. The process of reviewing and updating the protocol should continue triennially.

Recommendations on Process

Resolution of Interlocutory Matters

1. The *Public Inquiries Act* should be amended to include a mechanism whereby interlocutory matters, including issues related to solicitor–client privilege, can be resolved expeditiously. This was a recommendation made by Justice Bellamy in the context of the Toronto Computer Leasing Inquiry and the Toronto External Contracts Inquiry, and I agree with her entirely.

Production of Documents

2. The *Public Inquiries Act* should be amended to formalize the power to summons the production of documents without the need for attendance by a witness. This is also a recommendation made by Justice Bellamy that I support.

Funding for Judicial Review Applications

3. The Ministry of the Attorney General should develop a process to assess funding applications with respect to judicial reviews made by funded parties in an inquiry.

Examination of Witnesses

4. An inquiry's Rules of Practice and Procedure should be clear in providing that counsel for a witness is not permitted, except with permission of the Commissioner, to cross-examine his or her own client(s), no matter who actually leads the evidence of the client/witness.

Services and Programs for Healing & Reconciliation

Our Unique Phase 2 Mandate

When the government of Ontario commissioned this Inquiry, it established a unique mandate for a public inquiry in Ontario: “to inquire into and report on processes, services or programs that would encourage community healing and reconciliation in Cornwall.” In undertaking this mandate, I had to consider how to assess for others what an environment of healing and reconciliation could be. This is why I directed my Advisory Panel to go beyond research papers and academic discussion and reach out to the community of Cornwall to develop “made in Cornwall” solutions. Phase 2 also presented an opportunity to engage in discussion of public policy related to improving responses of institutions to allegations of sexual abuse of children or young people across Ontario. As a result, my Phase 2 Report covers both local approaches for healing and reconciliation and province-wide initiatives to improve prevention of and response to the abuse of children and young people. There are no findings of misconduct in my Phase 2 Report; neither have the activities in Phase 2 influenced any findings in Phase 1. However, because the sexual abuse of children and young people occurs in all communities, what has been learned in Cornwall in both Phase 1 and Phase 2 will be of value across Ontario in improving responses in future.

All approaches for Phase 2 recommendations, whether for Cornwall and the surrounding counties or province-wide, were guided by six key principles:

- survivor engagement—the principle that solutions, no matter how well intentioned, may not work if not informed by the experience of those who have been abused;

- consideration of the service needs of men who were abused as children or young people, recognizing that although the abuse of boys and young men is long-standing, our response as a society lags behind that reality;
- sustainability of change, because it is better to do fewer things well and have them endure than to diffuse effort and resources;
- building partnerships, because employing a variety of skills, perspectives, and information will reduce barriers between organizations and focus on results from the viewpoint of those served;
- pragmatism—being prepared to look at implementation feasibility, cost, time required, and accountability for results; and
- reinforcing education and public awareness as benefiting the justice system and society at large, because knowledge can be powerful in preventing the sexual abuse of children and young people, in early detection and treatment, and in effective and compassionate responses to adult survivors.

Rather than choosing piecemeal initiatives, my recommendations have been developed to work together and reinforce one another. In particular, those recommendations affecting Cornwall and the United Counties of Stormont, Dundas and Glengarry are designed not only to respond to current needs in that community but also to create mechanisms for sustained change. These recommendations are the product of community consultation, professional research, and the application of Phase 2 principles. I thank everyone in the community who invested in working on an environment of healing and reconciliation in Cornwall and Stormont, Dundas and Glengarry.

I also want to stress that for the community of Cornwall, responses on many of my recommendations need to proceed as soon as possible. Momentum has been building in developing an environment of reconciliation and renewal. That momentum will be lost if action is not taken soon. In addition, those currently attending the counselling needed for their personal healing will be concerned about future prospects for extension.

Volume 2: Services and Programs for Healing & Reconciliation starts with a detailed plan for sustainable change for the community of Cornwall and the United Counties. The report then examines issues across Ontario in education, professional training, and public awareness. Volume 2 also includes chapters on policy, legislation, and programs and services. These are all matters of province-wide importance. Volume 2 concludes with chapters on Witness Support and Counselling Support, innovative programs established at this Inquiry. The Counselling Support chapter includes recommendations for transition for those

already approved by this Inquiry to receive counselling, as well as for additional services to support that transition.

Community Healing and Reconciliation

Soon after appointment, my Advisory Panel reached out to the Cornwall community. Extensive meetings created opportunities to identify community perspectives on community healing and reconciliation—what it would look like and how to encourage it. There were a variety of views on healing and reconciliation; however, most saw it as being a long process, a journey and not a destination, a journey that had started but still had some way to go.

We took an active stance in Phase 2 because we wanted to open up a dialogue about the future, to develop consensus and momentum, and to rebuild relationships and trust. This was initially difficult because some survivors indicated they could not attend meetings if representatives of certain institutions were present; at the same time, some institutional representatives indicated they would not meet with those they saw as taking an adversarial position toward them.

My Advisory Panel developed an overall strategy for community engagement that started with small convening meetings and over time moved to larger “town hall” meetings, a series of workshops and policy roundtables, and the approval of action research projects to define “made in Cornwall” solutions and forge new partnerships to support healing and reconciliation. I also approved a mediation-facilitation project to assist in repairing relationships and moving those of goodwill closer to working together.

Particularly important was the Phase 2 work related to survivors of sexual abuse. The funding of a mentorship program in Cornwall, with valuable training and ongoing guidance provided by The Gatehouse®, strengthened individual survivors and led to the formation of a dedicated leadership group among them. Leadership training as part of the mediation-facilitation project enhanced the planning, communication, and negotiation skills of this leadership group. This was essential to ensure that there would be effective survivor engagement.

The foundations for community healing and reconciliation are now present in Cornwall and Stormont, Dundas and Glengarry. If given further support and time, they can result in a significant difference in community environment and outlook. In my view, there needs to be a specific mechanism put in place over the next five years with a mandate to continue community healing and reconciliation and to sustain the momentum for change which has been established.

The mechanism I identify for community healing and reconciliation would entail the provision of a dedicated fund of \$5 million from the government of

Ontario. I see this as an informal type of “Reconciliation Trust.” I suggest that representatives from the following groups active in healing and reconciliation act as its formal or informal trustees:

- PrévAction, a group drawn from many organizations across Cornwall to work as a catalyst for healing and reconciliation;
- The Survivors Leadership Team, a group of survivors working together to support survivor needs and work as equals with others in the community for Phase 2 goals;
- St. Lawrence College, which is establishing a Centre of Excellence in Cornwall to provide post-diploma education for those serving adult survivors and children and young people with a history of sexual abuse and to support a related research institute; and
- Citizens for Community Renewal, which as a party to this Inquiry showed interest and commitment to community healing and reconciliation.

These groups, working together to support the “Reconciliation Trust,” would make decisions within certain parameters on expenditure of the money set aside for community healing and reconciliation. My assessment is that they can work together respectfully and with common purpose in the interests of Cornwall and the counties of Stormont, Dundas and Glengarry. From the funds set aside, the group should have the ability to retain a facilitator and administrative support to do their work, but 90 percent of the funds would flow to programs and services. I recommend some ability to approve capital spending in support of needed programs and services. Another initial area of expenditure would be “Reconciliation Scholarships,” to allow those whose education was curtailed by the impact of abuse to obtain the equivalent of a high school education or to attend St. Lawrence College to gain new skills and enhanced self-esteem. Numerous ideas for expenditures for healing and reconciliation have arisen from the community and are documented in Phase 2 public and party submissions. They include prevention and education initiatives, support for the Boys and Girls Club, enhancement of existing services, and commemorative events. My recommendation for the “Reconciliation Trust” will empower the community to make its own decisions and set its own priorities for healing and reconciliation.

The time for expenditures by what I informally call the “Reconciliation Trust” is five years, a period long enough to accomplish significant change and complete capital projects but not so long that the process becomes unfocused or the connection to this Inquiry becomes too remote.

With the establishment of flexible mechanisms to promote community decision-making regarding projects or services for community healing and reconciliation,

I also identify four specific initiatives that are cornerstones for change in the Cornwall community. What these initiatives have in common is feasible implementation plans and community support. The undertakings also work together and reinforce each other. All of these proposed initiatives emerged because of the dialogue fostered in Phase 2; the projects have now grown and developed to the stage where their viability can be assured if financial support is provided. I have recommended these services and programs for funding because their interaction creates an impact that is greater than the sum of the individual components.

The four projects are:

- the Adult Community Healing Resource Centre;
- a Family and Child Advocacy Centre in Cornwall;
- a Centre of Excellence at St. Lawrence College, Cornwall campus; and
- continued support to PrévAction in its role as a catalyst for healing and reconciliation.

The specific programs and services, and the mechanism for funding of community-determined actions, provide a strong basis for a future of reconciliation and renewal in Cornwall and the surrounding counties. These activities, in combination and working together, represent all the components to propel community healing and reconciliation and to sustain it over time. They also support partnerships and provide a continued basis for interaction and mutual respect. These partnerships and mutual support are the basis for the rebuilding of trust and renewal of relationships integral to reconciliation.

Public Awareness, Education, and Professional Training

When we discuss how institutions respond to reports of sexual abuse of children and young people, the greatest hope for the future is prevention of abuse. Prevention and education go hand in hand. If the public is educated about the abuse of children and young people, we will all be better equipped to prevent incidents from happening and our children and young people will be empowered to help themselves.

One of the tasks of education will be to dispel pervasive myths and misunderstandings, particularly those that lead to the denial that children and young people are at greater risk from the trusted adults in their lives than from strangers. Another task will be to increase understanding of the serious impact of sexual abuse throughout a lifetime and of the need for support and compassion for adult survivors dealing with the legacy of abuse.

Effective education needs to be provided systematically. This means employing a variety of approaches, all working together. I have recommended a long-term,

widespread, multi-faceted public awareness campaign to change attitudes over time. It would be based on precedents in other countries, but also on Ontario campaigns against drinking and driving, domestic violence and elder abuse. I have suggested that the campaign should have the advice of an expert committee. That committee should include survivors and those from the Cornwall area who have shown commitment to promoting greater public awareness.

I have also recommended special efforts to reach children and adolescents at school, proposing systematic and mandatory education programs on sexual abuse and healthy sexual relationships. These programs should take place across all grade levels and be reinforced each year, not just a few times during a student's school life.

We cannot mandate universal education for children without adequate supports to teachers and schools. I have therefore made recommendations about professional training regarding sexual abuse prevention and early identification of sexual abuse. I have also suggested a fourth report by the Safe Schools Action Team to review the programs and policies that address sexual abuse by adults in positions of trust.

Many professionals deal with children and already have obligations to report suspicion of abuse. They should be better equipped to identify possible abuse and to know how to implement safeguards to prevent abuse and how to respond appropriately when abuse is reported. I recommend much broader professional training, the reinstitution of joint specialty training for child welfare workers and police, and mandatory, comprehensive, and ongoing professional education and training for employees of the government of Ontario who deal with children or adult survivors of sexual abuse.

Public Policy Change

This Inquiry carried out an agenda of policy-focused research and roundtable discussions intended to offer a greater understanding of the complexity of issues and options for the future.

One of the areas considered was apologies. I note the government of Ontario has already passed the *Apology Act, 2009*, an idea that was examined in a policy research paper and workshop in Cornwall. I support this legislation as creating greater legal clarity but, more importantly, because it may remove impediments to a healing apology. To support the effectiveness of this legislation, I recommend the implementation of practical supports to promote meaningful apologies that are sensitive to the needs of victims. I have specified appropriate educational programs and the creation of protocols or guides that can be used when providing an apology or advising on an apology. This would help organizations that genuinely want to apologize to learn how to do it effectively and avoid common pitfalls.

As part of the Phase 2 policy discussion on relevant policy issues, we received a policy paper and convened a workshop on the possibility of an Ombudsman or similar entity for survivors of sexual violence. The ideas were interesting, but on balance I was not convinced that the creation of such a position would be of value at this time. Were it established, there could be some defeated expectations because the areas that often disappoint victims—the exercise of police or Crown attorney discretion not to proceed with charges—are not areas where an Ombudsman could interfere. In setting priorities, I would rather support direct improvements so that a better job is done initially instead of putting resources into more oversight mechanisms. Improvements would involve better training to ensure more sensitive and appropriate response to those who have been abused. It is my conclusion that many victims would also benefit from assistance to help understand and navigate the justice system and the network of support services. This is needed for all victims, not just for those victims whose case goes to trial. Rather than providing additional funding for complaint resolution after services have been provided or a case goes through the prosecution processes, Ontarians would be better served by additional assistance to victims in obtaining the proper services or information at the beginning of their efforts to be served. I have suggested that in establishing such a victim liaison service, priority should be given to Cornwall and the United Counties of Stormont, Dundas and Glengarry.

This Inquiry convened a policy roundtable on confidentiality provisions in civil settlements. This is an area where relatively little is written by academics and practitioners and where there is widespread use of boilerplate provisions that might apply more appropriately to settlement of motor vehicle claims. For survivors of sexual abuse, where secrecy and shame are part of their injury, having to maintain silence in return for payment can have very negative consequences. It is often the case that little consideration is given to the terms of these “gag orders,” and that they are ambiguous or hard to interpret and follow. Based on a literal reading, some even appear to suggest that a person could not discuss their settlement with their counsellor or spouse.

I have suggested changes in this area, although these are limited in the area of private civil settlements because government intrusion into private negotiations *should* be limited. I do suggest more widespread professional education regarding these confidentiality provisions as they apply in situations of sexual abuse, to provide greater clarity and to ensure that routinely used provisions make it clear that individuals may discuss their abuse and discuss any related settlements with spouses, close family members, financial advisors, physicians and counsellors, and police or regulatory authorities. If insurers represent an impediment in this area, changes to the *Insurance Act* should be considered.

For the government of Ontario and its funded agencies, I suggest that they cease requiring or requesting confidentiality agreements in settling cases

involving sexual abuse, although there should be protection available in respect to the quantum of payment or the identity of the victim, if this is the wish of the victim.

In response to considerable interest expressed on the issue of sentencing of those convicted of sexual abuse, Commission staff prepared a study on trends in sentencing in Ontario, Alberta, and Québec between 1969 and 2008. The research provided analysis of available sample cases involving sexual abuse by persons in positions of authority over children or young people, looking at variables such as age or sex of the victims, whether the complaint was historical or current, and any prior record of the offender. The study noted a lack of comprehensive statistical information on sentencing, which makes formulation of public policy difficult. The study also found that there were differences in the duration of sentences in the three provinces, with Alberta having the longest, followed by Ontario and Québec. Based on the study's sample, those in a relationship of trust with the victim received shorter sentences in all three provinces than offenders who were strangers, and were less likely to be the subject of dangerous or long-term offender applications. Sentencing is only one part of a response to sexual abuse, and there are many complex factors involved in the sentencing process; however, I observe that reinforcing an understanding of the serious impact of abuse perpetrated by those in positions of trust is needed through educational initiatives. I also recommend further review of policies on sentencing practices and work between federal and provincial governments to both review sentencing in child abuse cases and to enhance available statistical information regarding sentencing of offenders in cases involving sexual abuse of children or young people.

Programs and Services in Ontario

Realistically, addressing the initial and potential life impact of sexual abuse dictates that help be available. The fact that some people need help is not a weakness or a drain on public resources. It is an investment in individuals who deserve help and who can achieve greater well-being and productive lives. I recommend a comprehensive, well-defined study to develop a strategic direction for services to men. I specify relevant considerations and specific study areas. I urge that this work start immediately since some men have already waited too long for services they need today. Pending study and action on a strategic direction, I recommend that existing services continue to be funded to maintain in place the expertise that may be needed to inform and implement future directions.

While I discuss services for men, I also address gaps in service for both women and men. This includes discussion of long-term counselling support,

peer or mentor support, and services in rural and remote areas. I recommend expansion of the use and funding of psychologists and social workers as a way to broaden access to needed long-term counselling for those with a history of sexual abuse as children or young people.

Inquiry research demonstrates that support to survivor peer or mentor activities can reduce social isolation and build self-esteem. It is not a substitute for professional services but a powerful and cost-effective way to make a constructive difference for survivors of sexual abuse. Provision of safeguards, including training and access to professional guidance, is essential to sustaining the benefits of peer-based assistance, and I recommend these be consistently funded.

For those living in rural and remote areas of Ontario, obtaining needed counselling as a victim of sexual abuse may not be possible because of the high cost of transportation. Those providing specialized one-on-one or group counselling may not be located in rural and remote areas, and telephone or Internet solutions may be insufficient to break down social isolation and facilitate discussion of sensitive and intimate issues. This barrier could be overcome by extending a modest transportation subsidy to those required to travel more than 100 kilometres (round trip) to attend counselling.

When we address prevention of abuse, there must be consideration given to treatment of those who offend. Providing services is not a reward for perpetration of sexual abuse but a technique to prevent future abuse. The approach taken in this Report is to recommend a series of demonstration projects, based on various models, to provide treatment to adult sexual offenders, including those with their own history of childhood victimization. Much can be learned in this process to develop a long-term approach to prevention of abuse through treatment of potential abusers and known offenders. Given the project work done by the Cornwall Community Hospital on this topic, I suggest that consideration be given to funding this organization as one of the projects, as well as to working with possible committed sponsors or partners such as The Men's Project or the Circles of Support and Accountability group, which provided an excellent paper on this topic.

Counselling and Witness Support

The need for long-term counselling for survivors of sexual abuse was one of the most frequently raised issues in Phase 2 of the Cornwall Public Inquiry. Expert testimony before this Inquiry explained that the impact of sexual abuse that has not been treated can be severe: alcohol and drug addiction; issues of trust, particularly toward authority; problems with intimate and family relationships; interruption of education; anxiety and mood disorders; confusion over sexual

identity; problems of self-control, sometimes leading to criminal acts; serious physical illness and early death.

At the inception of the Cornwall Public Inquiry, I decided to make counselling available to anyone touched by this Inquiry. This included those who identified as survivors, their family members, witnesses at this Inquiry, and professionals affected in their work with this Inquiry. The model I chose for delivery was based on choice: individuals could choose their own counsellor, provided the counsellor was qualified and willing to follow the rules set for the administration of Counselling Support. Counselling Support also assisted in providing funding for transportation at government rates.

New applicants for Counselling Support were approved up to the deadline in the late summer of 2008. In total, 388 individuals were approved. Most of these individuals live in Cornwall or Eastern Ontario; only 15 reside outside of these areas.

The total cost of Counselling Support since the inception of the Cornwall Public Inquiry to the end of the 2008/2009 fiscal year is approximately \$3 million.

Counselling Support is currently scheduled to expire 90 days after the release of this Report. Currently, there are approximately 170-195 individuals still actively attending counselling. Counsellors who have the necessary clinical information about clients have assessed those client's needs for ongoing counselling; I have also reviewed expert professional testimony given in Phase 1 on the need for long-term counselling for adult survivors of abuse. After considering need, I have also considered the ability of existing services to absorb clients without additional funding. There was some capacity in the Cornwall area to absorb counselling clients, more for women than for men, but it would be unrealistic and unfair to expect the absorption of up to 150 clients. In addition, having to switch counsellors would be a setback for many individuals and lead to very serious outcomes for some, such as harm to themselves or others or a return to debilitating addictions. I considered other mechanisms for funding of Counselling Support, such as the Criminal Injuries Compensation Board. While that source is available to those who may wish to make application, it is not a practical or compassionate solution for most Counselling Support clients. In looking at possible alternate sources for counselling, we found no existing available services for family members, survivors, or professionals affected by this Inquiry.

Client-specific information, expert testimony on counselling needs, the strong Phase 2 submissions in favour of Counselling Support, and the absence of comprehensive and realistic service alternatives have convinced me of the need to

extend Counselling Support. The period selected for extension is five years, with a cost of approximately \$2.7 million for the whole period. During the extension period, the current approach of permitting clients to choose their own counsellor should definitely continue. Continuity of the counselling relationship is very important for progress in counselling, particularly as the building of a trusting therapeutic relationship can take some time for those whose trust was breached in childhood or as a young person. As well, I suggest continuing a similar administration arrangement because it has been cost-effective, although with the wind-up of this Inquiry, overall accountability would have to shift to the Ministry of the Attorney General.

During this five-year period, most clients will graduate from counselling and move on with their own lives, better able to cope with their past and enjoy their future. Some will stop counselling due to other events in their lives or because it has not been helpful to them. I expect only a small number of individuals to continue throughout the entire extension period. I note that many counselling participants have waited a lifetime for counselling and have a lifetime of issues to resolve.

In addition to a transition strategy for those already approved for Counselling Support, I have considered the needs in the Cornwall area for personal healing. I recommend additional funding for counselling of those who come forward as survivors of historical sexual abuse over the next five years through the creation of an additional counsellor position at the Cornwall Community Hospital. As part of an overall transition strategy from one-on-one counselling, I also recommend funding of a series of one-week residential retreats for survivors of sexual abuse provided by the Sexual Assault Centre for Quinte and District. This organization has successfully offered similar programs in the past, with life-changing results. Those already in counselling could benefit, and their attendance could be part of an overall transition from Counselling Support. Graduates of this program could also add to survivor leadership in Cornwall, consistent with my principle that there be survivor engagement for community healing and reconciliation.

The establishment of Witness Support for those testifying before this Inquiry and of Counselling Support for those affected by this Inquiry were useful innovations. It is my view that consideration should be given in future to such supports where a public inquiry may involve vulnerable individuals. If the Government decides this is appropriate for any inquiry, I suggest the constituting Orders-in-Council provide specific discretion for future Commissioners to establish such supports in the manner determined appropriate for the subject matter being addressed and the needs of those involved.

Recommendations for Phase 2

Prospects for Healing and Reconciliation

1. The sum of \$5 million should be provided by the government of Ontario to support community healing and reconciliation in Cornwall and Stormont, Dundas and Glengarry for a period of five years.
2. A specific public servant should be designated by the government of Ontario to act as a liaison between those accountable for decisions on initiatives to be funded and the government of Ontario to ensure adherence to reasonable expectations for financial management and accountability for public funds and the establishment of governance mechanisms.
3. Those responsible for making decisions on initiatives to be funded, and for purposes of accountability and reporting to the government of Ontario and to the people of Cornwall and Stormont, Dundas and Glengarry, should be representatives of the following organizations, working together: The Survivor Leadership Team; PrévAction; Citizens for Community Renewal; St. Lawrence College, Cornwall campus.
4. The scope of initiatives that can be approved from the \$5 million should be those that can be completed by the end of a five-year period and directed to events, activities, or organizations in the Cornwall and Stormont, Dundas and Glengarry area for:
 - a. support of adult survivors of sexual abuse that occurred when that adult was a child or young person;
 - b. prevention of the sexual abuse of children or young people, including the building of resilience and a sense of inclusion for children and young people;
 - c. provision of support and assistance to children, young people, and their families when abuse does occur;
 - d. continued education for professionals or employees of local institutions so they may better support or respond to adult survivors or better understand and respond to the impact of sexual abuse of children and young people, providing such education is inclusive and not for only one institution or organization;
 - e. public awareness of the impact of sexual abuse and education for students and staff at local schools; and
 - f. any space or place of recognition or event of recognition related to sexual abuse of children and young people, current and historical.
5. Expenditures that can be authorized should be able to include costs for provision of French-language materials for any initiative approved.

6. Approvals for capital projects should be limited to \$200,000 to any one organization over a five-year period, and the capital must be expended by the end of the five-year period established to support community healing and reconciliation.
7. Among the expenditures that the group may approve are up to five annual Reconciliation Scholarships for adults with a history of sexual abuse experienced in the Cornwall or Stormont, Dundas and Glengarry area who wish to obtain the equivalent of a high school education or to upgrade their education by attending St. Lawrence College, Cornwall campus.
8. In addition to considering and approving specific initiatives in Cornwall and area, the group should retain a facilitator or community-development resource of their choice to assist in relationship building and should have discretion to retain appropriate administrative or management assistance to support their work from the money allocated by the government of Ontario. The costs of any retentions and overhead should not exceed 10 percent of the monies set aside for the work of community healing and reconciliation over a five-year period.
9. The group responsible for decisions should provide an annual report in both French and English to the people of Cornwall and Stormont, Dundas and Glengarry to detail the services, programs, and capital expenditures that are proceeding and being planned, and the basis of decisions for expenditures.

A Five-Year Plan for Sustainable Change

10. The Ministry of the Attorney General should provide funding of at least \$650,000 for the establishment and operation of an Adult Community Healing Resource Centre in Cornwall, based on the proposal by the Survivor Leadership Team. Staffing and operational funding should be provided for at least a five-year period.
11. The Ministry of the Attorney General should provide funding of up to \$2.8 million for the establishment and operation of a Family and Child Advocacy Centre in Cornwall, based on the proposal of PrévAction, and supported by the Children's Aid Society of the United Counties of Stormont, Dundas & Glengarry and the Cornwall Community Police Service. Staffing and operational funding should be provided for a period of at least five years.
12. The Ministry of the Attorney General should conduct assessments of the Adult Community Healing Resource Centre and the Family and Child Advocacy Centre on an ongoing basis, with a final report after five

years to assess results, information and experience gained and to determine whether the two programs should continue to be funded.

13. The government of Ontario should support the establishment of a Centre for Excellence for Applied Education in the Prevention, Treatment and Community Support of Abused Children, Youth and Adults at the Cornwall campus of St. Lawrence College. Support should include funding of \$100,000 for start-up of the related research institute. The government of Ontario should cooperate with the College by making public servants with valuable expertise available as guest speakers or lecturers, and sending public servants to summer institutes or the post-diploma certificate programs to benefit from training. In addition, for five years, St. Lawrence College should be provided with \$10,000 annually for a lecture series to continue to bring experts to Cornwall to advance understanding and response to the sexual abuse of children and young people.
14. The government of Ontario should provide funding of \$300,000 to PréVAction for a period of approximately three years to support a continuation of its work as a catalyst for change, to facilitate its participation in the establishment of programs such as the Adult Community Healing Resource Centre and the Family and Child Advocacy Centre, and to participate in the ongoing work of the Reconciliation Trust.

Public Awareness, Education, and Professional Training Across Ontario

15. The government of Ontario should implement a province-wide public awareness campaign on the issue of the sexual abuse of children and young people, similar to long-term campaigns against drunk driving and the current campaign against domestic violence. The campaign should seek to reach as wide an audience as possible and should therefore engage as many different media formats as possible, including television, radio, newspapers, magazines, the Internet, and billboards. The campaign should also aim to target different audiences with appropriate messaging, such as messages for the public at large, messages for parents, messages for volunteers, messages for boys, messages for girls, messages for professionals, and messages for perpetrators or potential perpetrators.
16. The government of Ontario should appoint an advisory committee to advise on the design and implementation of the awareness campaign. The advisory committee should include experts from various areas, including education, justice professionals, psychologists, media, and

social-marketing professionals. The committee should be augmented by the valuable expertise of survivors of sexual abuse and of those in the Cornwall area who have already shown an active interest in an awareness campaign.

17. The government of Ontario should implement a universal sexual abuse awareness education program in all Ontario schools, at all grade levels. A variety of approaches should be used in providing this information, such as having outside experts present information to all grades and having specialized curriculum and teaching material developed for use by teachers in the classroom. In designing this program, care should be taken to include specific elements related to the sexual abuse of boys and young men.
18. The government of Ontario should recommend to the Council of Deans of the thirteen faculties of education in Ontario that comprehensive coverage of sexual abuse, including of violations by adults in positions of authority as well as legislative, policy, and practice interventions, be required in the curriculum for the Bachelor of Education and Master of Education degrees.
19. The government of Ontario should recommend to the Ontario College of Teachers that it amend the Standards of Practice for the Teaching Profession to include sexual abuse prevention and the early identification of sexual abuse.
20. The government of Ontario should ensure that all Ontario school boards have teacher training, leadership training, and appropriate curriculum to address early identification and prevention of sexual abuse. For example, school boards should include sexual abuse training in the New Teacher Induction Program.
21. The government of Ontario should recommend that the Ontario Teachers' Federation highlight sexual abuse as an essential topic as part of ongoing professional development workshops for its membership.
22. The government of Ontario should commission a fourth report by the Safe Schools Action Team to review the programs and policies that address sexual abuse by adults in positions of trust. Such a report should explore the mechanism of audits to measure the extent to which these programs are actually delivered in classrooms at different grade levels and any perceived barriers to delivering the programs across Ontario.
23. The government of Ontario should implement mandatory, comprehensive and ongoing professional education and training for employees of the Province of Ontario, including sensitivity training for professionals who may have contact with children or adults who may

have been sexually abused as children or young people. There should be information made available from experts in the field of sexual abuse to all partners in the justice system to ensure understanding of the lifelong impact of abuse.

24. The Ministry of the Attorney General should request that the Chief Judges of the Ontario Court of Justice consider the provision of an educational program for judges on issues related to the sexual abuse of children and young people by trusted adults.
25. The government of Ontario should recommend to professional faculties at all Ontario universities and colleges for professionals in contact with adult survivors or children or young people who may have been sexually abused that those professional faculties implement mandatory education on the sexual abuse of children and young people and its impact both immediately and over a lifetime.
26. The government of Ontario should recommend to self-governing professional bodies whose members may be in contact with adult survivors or children and young people who may have been sexually abused that they promote education in this field and, if appropriate, make amendments to relevant guidelines and standards related to professional competence.
27. The government of Ontario should fund joint speciality training for child welfare workers and police officers on investigating cases of child sexual abuse. Efforts should be made to expand this training to include other relevant professionals who could be involved in investigations or in supporting the victim or his or her family.
28. The government of Ontario should ensure that a professional teaching module is prepared using the expert testimony and other relevant evidence and information from the Cornwall Public Inquiry so that it is available for college, university, and professional teaching.

Policy and Legislative Change

29. The government of Ontario should request that the Law Commission of Ontario, or a similar entity, study the use and effects of apologies and develop “promising or best practices,” protocols, and toolkits to promote and support meaningful apologies.
30. The government of Ontario should work with associations, such as the Law Society of Upper Canada, the Ontario Bar Association, the ADR Institute of Ontario, the Ontario Medical Association, and the Insurance Institute of Ontario, to educate professionals about the effective use

of apologies in the context of civil litigation. Such education should include the benefits and risks of apologies; legal and ethical issues that arise in connection with apologies; how to promote and protect the interests of disputants at each stage of the civil litigation process; and the elements of effective apologies from the viewpoint of those receiving apologies.

31. The government of Ontario should proclaim the legislative provisions establishing the Independent Police Review Director in the *Police Services Act* as soon as possible. It should review the effectiveness of this mechanism from the perspective of victims after it has operated for several years.
32. The government of Ontario should ensure that those dealing with complaints about public services, whether they are provided through the Ombudsman of Ontario or through independent complaints boards, have been trained in dealing with those who have experienced sexual abuse or assault and that they are able to offer specialized services, such as appropriate referrals and sensitive responses.
33. The government of Ontario should establish a province-wide victim liaison service to assist victims in accessing services relevant to their needs, not only at the crisis or immediate stage, but on a long-term basis. In establishing such a service, priority should be given to Cornwall and the Stormont, Dundas and Glengarry area.
34. The government of Ontario should direct all ministries or agencies under its jurisdiction to cease requiring or requesting confidentiality agreements in settling cases involving sexual abuse except to protect the identity of the individual receiving any payment and the amount of payment, but only if the individual wants to protect his or her name or the quantum of payment; the government of Ontario should not enforce confidentiality provisions in past agreements except in exceptional circumstances.
35. The government of Ontario should pass legislation in respect to institutions such as school boards, Children's Aid Societies, and police forces requiring them to adopt a policy regarding confidentiality agreements similar to that adopted by the government of Ontario within a period of three years; in the meantime, such organizations are urged to consider voluntary change.
36. The Diocese of Alexandria-Cornwall should maintain a policy on confidentiality provisions in settlement agreements similar to those recommended for the government of Ontario.

37. Regulations to the *Insurance Act* should be amended to provide that it be an illegal insurance practice for an insurer to suggest or insist on settlement provisions that restrict discussions of abuse and related settlements with spouses, close family members, financial advisors, physicians, counsellors, police, or regulatory authorities.
38. Mediators', arbitrators', and lawyers' organizations should conduct educational sessions to sensitize mediators, arbitrators, and lawyers to issues involving confidentiality clauses in settlement of cases involving sexual abuse, with particular focus on the impact of the burden of secrecy. In addition, mediators' and arbitrators' organizations should develop a series of "promising or best practice" confidentiality provisions for use in sexual abuse cases. Such "promising or best practice" provisions should make it clear that individuals may discuss their abuse and any related settlement with spouses, close family members, financial advisors, physicians and counsellors, and police or regulatory authorities.
39. The Ministry of the Attorney General should undertake a thorough review of sentencing practices in cases relating to child sexual abuse in order to determine whether Crown policies and procedures should be revised.
40. The Ministry of the Attorney General should provide appropriate expert information and training to Crown attorneys so that they may provide appropriate submissions to courts in cases of sexual abuse by a trusted figure. Funds should be available for reports needed in certain cases. In addition, expert information and education should be made available to all the partners in the justice system to ensure that up-to-date information about impact of the abuse of children and young people by those in positions of trust or authority is well understood.
41. The government of Ontario should approach other provinces and the federal government with a view to instituting a review of sentencing in child sexual abuse cases. Such review should include consideration of appropriate sentence lengths, the keeping of appropriate and accessible statistical information regarding sexual abuse of children or young people, and the practices and procedures related to the sentencing of offenders in such cases.

Programs and Services in Ontario

42. The government of Ontario should commission a study with the goal of establishing a strategic direction and implementation plan for the provision of services to men who have been the victims of sexual abuse.

43. The study should address the range of needed services, models for service delivery, service distribution, special considerations for services for men, and overall responsibility within the government of Ontario.
44. Pending establishment of strategic direction for services to men, those services that currently exist for men who have been victims of sexual abuse should be sustained by continued funding.
45. The Ministry of Health and Long-Term Care should develop a strategy for the provision of long-term counselling for those who have a history of sexual abuse as children or young people and who require long-term counselling. Such a strategy should focus on broadening access to long-term counselling through the use of qualified psychologists and social workers. In this context, consideration should be given to a well-structured study that examines the impact of counselling on other health care costs.
46. The Ministry of the Attorney General should provide consistent support to peer or mentorship support initiatives for men and women with a history of sexual abuse as children or young people.
47. The government of Ontario should provide a transportation subsidy to survivors of historical sexual abuse who need to attend individual or group counselling or peer support sessions if they live in a rural or remote area and must travel more than 100 kilometres (round-trip) for services.
48. The government of Ontario should work with interested and qualified groups, organizations, and health facilities to develop up to five demonstration projects that provide treatment to adult sexual offenders—including those with a history of childhood victimization—using several models, providing that safeguards are in place.
49. The government of Ontario should give serious consideration to selecting the proposal of the Cornwall Community Hospital as one of the initiatives to proceed.
50. The government of Ontario should work with possible project sponsors or partners to ensure that at least one of the demonstration projects incorporates The Men's Project and an organization such as the Circles of Support and Accountability.
51. The programs should be carefully evaluated to assess impact on prevention of sexual abuse, to determine promising transferable practices, and to establish workable responses for treatment, with a primary focus of preventing sexual abuse but with an additional focus of improving the lives of those at risk of offending sexually as a way to reduce their propensity to offend.

Counselling Support

52. Counselling Support should be extended for a period of five years, and should be funded by the government of Ontario.
53. Those eligible for extended Counselling Support should be the individuals approved for Counselling Support at the Cornwall Public Inquiry.
54. Individuals approved for Counselling Support should be able to continue with their current counsellor or choose a new counsellor, provided the new counsellor is qualified for the work and is prepared to operate within the parameters of Counselling Support payment and administrative requirements.
55. Transportation assistance should continue to be paid to individuals by the government of Ontario, to facilitate attendance at counselling sessions.
56. The administrative model, rules, and supports, such as supervision, currently used for Counselling Support should be continued, to the extent feasible.
57. The Ministry of the Attorney General should have responsibility for ongoing administration and accountability for extended Counselling Support, although the Ministry may select an agent or organization to manage day-to-day operations.
58. If the Ministry of the Attorney General cannot make a decision regarding Counselling Support extension within the ninety-day period available after the release of the Report of the Cornwall Public Inquiry, the existing administrative arrangements through this Inquiry should be extended until a decision is made and communicated.
59. In any communication regarding any decision to extend or end Counselling Support, arrangements should be made for communications to all counsellors and social service agencies in Cornwall and Stormont, Dundas and Glengarry (SD&G), as well as to those approved for Counselling Support.
60. A review of future Counselling Support needs should be conducted by the Ministry of the Attorney General in the last year of any extension to assess what needs for counselling may remain and to determine how those needs could be met.
61. The government of Ontario should provide the Cornwall Community Hospital with five-year funding for an additional counsellor, primarily to support adult victims of sexual abuse experienced as children or young people. As a condition of funding, the Cornwall Community Hospital should produce a statistical report annually on those served by the new counsellor position.

62. The Sexual Assault Centre for Quinte and District should be funded by the Ministry of the Attorney General to provide four sessions of the Quinte Residential Treatment Program for individuals currently in Counselling Support or residing in the Cornwall and Stormont, Dundas and Glengarry area. At least two sessions should be for men. The sessions should be offered before June 2014. The session organizers should consult with Counselling Support counsellors and Cornwall service agencies to identify candidates.
63. In the creation of public inquiries, the government of Ontario should consider whether a constituting Order-in-Council should explicitly provide for discretion for the appointed Commissioner to provide Counselling Support services.
64. If Counselling Support services are created, their objectives should be to assist all those affected by the inquiry in question.
65. If capacity for Counselling Support is created at public inquiries, the model developed at the Cornwall Public Inquiry—based on personal choice of counsellor, privacy, and straightforward and helpful administrative processes—should be considered as a basis for implementation.

Witness Support

66. In the creation of public inquiries, the government of Ontario should consider whether a constituting Order-in-Council should explicitly provide for discretion for the appointed Commissioner to provide Witness Support services.
67. If created, the objectives of Witness Support services should be to assist vulnerable witnesses and to reduce re-victimization, to demonstrate respect for the public service provided in testifying at a public inquiry, and to facilitate efficient hearing processes.

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The Honourable
G. Normand Claude
Commissioner

L'honorable
G. Normand Claude
Commissaire

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